modify the exclusion relating to qualified small business stock and for other purposes.

S. 986

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 986, a bill to allow media coverage of court proceedings.

S. 1214

At the request of Mr. HOLLINGS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1214, a bill to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.

S. 1541

At the request of Ms. COLLINS, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1541, a bill to provide for a program of temporary enhanced unemployment benefits.

S. 1571

At the request of Mr. LUGAR, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1571, a bill to provide for the continuation of agricultural programs through fiscal year 2006.

S. 1615

At the request of Mr. SCHUMER, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1615, a bill to provide for the sharing of certain foreign intelligence information with local law enforcement personnel, and for other purposes.

S. 1621

At the request of Mrs. CLINTON, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1621, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of community members, volunteers, and workers in a disaster area.

S. 1627

At the request of Mr. DEWINE, his name was added as a cosponsor of S. 1627, a bill to enhance the security of the international borders of the United States.

S. 1630

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1630, a bill to extend for 6 additional months the period for which chapter 12 of title 11, United States Code, is reenacted.

S. 1633

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1633, a bill to amend the Cooperative Forestry Assistance Act of 1978 to establish a program to provide assistance to States and nonprofit organizations to preserve suburban open space and contain suburban sprawl, and for other purposes.

S. 1643

At the request of Mrs. MURRAY, the names of the Senator from Virginia (Mr. WARNER) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1643, a bill to provide Federal reimbursement to State and local governments for a limited sales , use and retailers' occupation tax holiday.

S.J. RES. 24

At the request of Mr. SPECTER, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S.J. Res. 24, a joint resolution honoring Maureen Reagan on the occasion of her death and expressing condolences to her family, including her husband Dennis Revell and her daughter Rita Revell.

S. RES. 140

At the request of Mr. ROBERTS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 140, a resolution designating the week beginning September 15, 2002, as ''National Civic Participation Week.''

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN:

S. 1655. A bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals; to the Committee on the Judiciary.

Mr. BIDEN. Madam President, I rise today to introduce the Captive Exotic Animal Protection Act. This legislation was first introduced in the 104th Congress by former Senator Frank Lautenberg and I am pleased to be here today continuing his legacy.

The Captive Exotic Animal Protection Act would make it illegal to knowingly transfer, transport, or possess in interstate commerce of foreign commerce, a confined exotic mammal for the purposes of allowing the killing or injuring of that animal for entertainment or for the collection of a trophy. The bill protects exotic mammals that have been held in captivity for the shorter of a. the greater part of the animal's life, or b. a period of one year, whether or not the defendant knew the length of the captivity. This bill is intended to prevent the cruel and unsporting practice of what we have come to know as ''canned hunts.''

Words cannot describe a ''canned'' hunt. The images that I have seen, footage taken surreptitiously at these ranches, provides evidence that the treatment of these animals is troubling. Today, at more than 1,000 commercial canned hunt operations across the country, trophy hunters pay a fee to shoot captive exotic animals, from African lions to giraffes, blackbuck antelope, assorted African goats and sheep, a Corsican ram, or a boar, in fenced-in enclosures. The hunting of these animals typically occurs in a fenced enclosure and is often in a ''guaranteed kill'' arrangement meaning that a hunter by virtue of the fact that he has paid his fee is assured of a kill.

Now hunting is a sport and if you ask any of the hunters in my home State of Delaware or elsewhere about this they will tell you that there is an ethic of hunting that involves consideration of fair chase, affording the animal the opportunity to evade or elude the hunter. Canned hunts, in fenced-in enclosures, weigh the odds so heavily in favor of the hunters that it essentially eliminates the fair chase component. In addition, these animals on hunting ranches are often fed by hand, in a sense domesticated, and have little or no fear of humans. They don't run when they see a human being in front of them. This practice is unfair and unsportsmanlike.

But it is not just about the fact that this practice is inhumane, there are also other concerns. Clustered in a captive setting at unusually high densities, confined exotic animals often attract disease more readily than more widely dispersed native species who roam freely. These exotics then interact with native species through fences, jeopardizing the health of deer, elk, and other native species. Animal disease places hunting programs and wildlife watching programs, that generate millions of dollars in economic activity, at risk.

While a number of States have taken action to prohibit the practice of canned hunts, California, Connecticut, Georgia, Indiana, Maryland, Massachusetts, Montana, Nevada, North Carolina, New Jersey, Oregon, Rhode Island, Washington, Wisconsin, and Wyoming have passed such statutes, that is only a small segment of the country. Unfortunately, the regulation of the transport and treatment of exotic animals on shooting preserves falls outside the traditional domains of State agriculture departments and State fish and games agencies. The Captive Exotic Animal Protection Act is specifically designed to address this problem, which directly involves an issue of interstate commerce.

This is sensible legislation that is backed by responsible hunters, animal protection advocates, wildlife scientists, environmentalists and zoological professionals. The Boone and Crockett Club and the Izaak Walton League of America, nationally recognized hunting clubs, have policy positions affirmatively opposing canned hunts. In addition, this legislation is supported by the Humane Society of the United States, the Doris Day Animal League, the Fund for Animals, and the Animal Protection Institute.

I want to say to my colleagues who may have questions about this legislation that the Captive Exotic Animal Protection Act is limited in its scope and purpose and will not limit the licensed hunting of any native mammals or any native or exotic birds. The bill is directed at true ''canned'' hunts and covers only exotic mammals, or those not historically indigenous to the United States. Birds, native or non-native, and indigenous mammals, such as white tail deer and bears, are not covered by the bill. This legislation is a federal remedy and proposed specifically to deal with the purely commercial interstate movement of exotic animals destined to be killed at canned hunting ranches.

I hope you will join me in supporting this legislation.

By Mr. FEINGOLD (for himself and Mr. HATCH):

S. 1656. A bill to provide for the improvement of the processing of claims for veterans compensation and pension, and for other purposes; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Madam President, I am proud today to introduce the Veterans Benefits Administration Improvement Act of 2001, a bill that aims to decrease the amount of time it takes the Veterans Benefits Administration, VBA, to process veterans' claims. I am pleased to be joined by the senior Senator from Utah, Senator HATCH. He had long been a strong advocate for our veterans.

In 1999, there were 309,000 backlogged claims at the VBA. Today, that number stands at 533,000. It now takes an average of 202 days to process disability compensation and pension claims. This figure is expected to grow to more than 270 days by 2002. Many of the claims that are awaiting action have been filed by World War II and Korean War veterans; our World War II veterans are dying at the rate of about 1,500 a day. The VBA must take action to improve this dismal record.

I have traveled throughout Wisconsin and met with veterans. This problem is consistently one of their top concerns. They are angry and frustrated, with justification, about the amount of time it takes for the VBA to process their claims. In some instances, veterans are waiting well over a year. Telling the men and women who served their country in the armed forces that they ''just have to wait'' is wrong and unacceptable.

The VBA Improvement Act will require the Secretary of Veterans Affairs to submit a comprehensive plan to Congress for the improvement of the processing of claims for veterans compensation and pension. In addition, every six months afterwards the Secretary must report to Congress about the status of the program.

While I am pleased that Secretary Principi has acknowledged that improving claims processing is a priority for the VA, nevertheless it is time for Congress to hold the Department of Veterans Affairs accountable. Our veterans are unable to wait for additional recommendations from more reports or task forces. It is time for Congress to hold the VA accountable. Our veterans deserve no less.

By Mr. SCHUMER (for himself, Mr. DEWINE, and Mr. HATCH):

S. 1658. A bill to improve Federal criminal penalties on false information and terrorist hoaxes; to the Committee on the Judiciary.

Mr. SCHUMER. Madam President, today Senator DEWINE and I are introducing a bill that will address what has sadly become a very serious problem. Since September 11, the number of terrorist hoaxes has increased dramatically.

The bill that we introduce today would fill a gap in the law by explicitly making the commission of a terrorist hoax illegal and punishable by up to five years in jail.

The last seven weeks have been difficult for all Americans. By nature, we Americans are tough. But many of us, myself included, are also a little more anxious than usual. That is understandable. But what is not understandable, in fact what is barely conceivable, is that some people think it is funny to take advantage of that fear.

Each terrorist hoax means a waste of valuable law enforcement time and scarce resources.

Our police officers and the FBI are already working around the clock to catch and arrest everyone involved in the September 11 attack, to find the perpetrators of the anthrax attacks, and to prevent future attacks from taking place.

Wasting law enforcement's time and resources by committing terrorist hoaxes takes away from their ability to protect us. So in many ways, committing a terrorist hoax is an extension of terrorism itself.

Beyond that, each terrorist hoax mocks the loss of thousands of lives in the September 11 attack and the recent deaths from anthrax.

In the first three weeks of October alone, the FBI has responded to more than 3,300 cases relating to weapons of mass destruction, including 2,500 threat assessments involving suspected anthrax incidents. Normally, they deal with 250 of these cases in an entire year. The last thing the FBI and the police have time for is a terrorist hoax.

Unfortunately, many of my fellow New Yorkers can attest to the fear and the commitment of resources caused by one of these terrorist hoaxes.

In Nassau County, on October 16, a Federal Express deliveryman placed a white powdery substance inside a computer package. That led to an understandably frantic phone call. Seven officers and three vehicles were dispatched in response to this anthrax hoax.

On October 26, a Staten Island man sent a threatening letter in a powder-laced envelope to his girlfriend.

An apparent hoax diverted a Dallas-bound American Airlines flight from New York's LaGuardia Airport to Washington, DC's Dulles Airport on October 29 after a threatening note was found on board. The passengers and flight crew were all forced to evacuate on the runway. The impact on the entire airport's operations were disrupted, and the entire national air traffic control system had to deal with this.

On October 17, a 17-year-old brought an envelope with the words ''Death to All Who Open This'' to Kingston High School in the Hudson Valley. The envelope contained white, powdery material. According to school officials, approximately 3,000 students and staff were held in lock-down for 90 minutes while some 50 local police, fire, and emergency response personnel assessed the situation.

Now more than ever, we need to send a loud and clear message to the perpetrators of hoaxes of all kinds: Your behavior is wrong. It is disgusting. And it is a serious crime.

The legislation that Senator DEWINE and I are introducing today sends that message.

Anyone convicted of committing a hoax terrorist attack involving a fake explosive incendiary, biological, chemical, or nuclear device, or falsely reporting one of these attacks, will be punished by a prison sentence of up to five years as well as stiff monetary fines.

In addition, anyone convicted of committing a terrorist hoax would be held responsible for reimbursement for all expenses resulting from the hoax.

This bill makes it clear that committing a terrorist hoax is no laughing matter.

My hope is that by sending a strong message today and in the weeks to come, those who are thinking about committing a terrorist hoax will think twice before diverting the police and FBI from focusing all of their time and energy on protecting us from real threats, and before another hoax puts us on edge, yet again.

Mr. DEWINE. Madam President, I rise today to discuss a distressing problem facing our citizens, our Nation's law enforcement officers, and our public health officials. This problem is the growing threat of bioterrorism and other weapons of mass destruction—both real and perceived.

The recent bioterrorist attacks affecting the media, Congress, and the U.S. Postal Service have spawned a great number of anthrax hoaxes across the Nation. These hoaxes, aside from adding to the widespread public panic

over terrorism, have created another serious problem: They are taxing our already strained emergency management and public health resources, which are vital to protect our national security.

Suprisingly, there is no existing Federal code that directly prohibits biological, chemical, or nuclear weapon hoaxes. Therefore, there is no Federal law that directly punishes the current anthrax hoaxes. These acts waste scarce Federal resources, negatively affecting interstate commerce and national security interests. Yet, there is no Federal law on the books to prosecute these offenders.

In all likelihood, the current anthrax hoaxes will be prosecuted under a provision for ''mailing threatening communications'' or threatening the ''use of certain weapons of mass destruction,'' 18 USC 876, 2332a. The problem with prosecuting the anthrax hoaxes under these statutes is that they require the prosecutor to prove that the offender has crossed a threshold of threatening language. But what constitutes sufficiently threatening language?

Unfortunately, not all of these hoaxes meet this threshold. For example, under current law, it is difficult to prosecute the acts of an eighth-grade science teacher in Ohio. This teacher placed powered lime in a school envelope and attempted to mail it through the postal system to her brother in another city. The envelope was found en route at the school, before it could leave the building. The school was evacuated, frightening hundreds of already shaken children and parents. Emergency management teams wasted valuable time and resources testing the site.

Right now, this woman faces a State charge of inducing panic. That is it; no other charges are pending. There is no clear Federal law on the books to prosecute her offense, because there was no threat. Had there been an actual incident where anthrax was released while police and emergency crews were tied up looking into this hoax, who knows how widespread the damage could have been. Many people could have been infected in the time that it took emergency crews to clear up this ''joke.''

So far, the U.S. Postal Service reports that it has evacuated over 353 postal facilities for varying amounts of time as a result of more than 8,600 hoaxes, threats, and suspicious incidents related to anthrax since just mid-October. That is an average of 578 a day for an agency used to dealing with only a few hundred such calls a year. In my home State of Ohio, alone, health officials have tested nearly 800 suspicious specimens from around the State, but have found no anthrax or other dangerous substances. A significant number of those reports appear to have been hoaxes. On a national scale, the financial and physical strain imposed by hoaxes on our national law enforcement and public health systems have been enormous. In regard to our citizens, these pranks cause great panic and are really acts of terrorism.

That is why, along with my colleagues, Senator SCHUMER and Ranking Member HATCH, I have introduced a bill that would create a new crime for hoaxes involving the purported use of a weapon of mass destruction. This bill will prohibit any conduct that gives the false impression that a biological, chemical, or nuclear weapon may be used, when it is reasonable to assume that there will be an emergency response. The required conduct may involve the communication of information, whether in written or verbal form, as well as physical actions. Under our bill, there is no legal burden to identify a specific threat. For example, we would be able to prosecute someone who mails an envelope of white powder with a note that says, ''Smile, you have been exposed to anthrax.''

Furthermore, anyone convicted under this bill would be responsible for the reimbursement of expenses incurred in responding to a hoax, including the cost of any response by any Federal military or civilian agency to protect public health or safety during the course of an investigation. Convicted cohorts also would share in financial liability for such a hoax.

The Ohio Department of Health, alone, has spent more than $500,000 of the taxpayers' money investigating false anthrax claims—a large percentage of which were hoaxes. This bill would discourage hoaxes, while helping to alleviate the financial burden that these pranks and false reports are imposing on our Federal, State, and local government agencies.

It is indeed shocking that some people want to capitalize on the recent horrific acts of terrorism in order to play a joke or intentionally cause widespread panic, or worse, inflict physical harm. Unfortunately, this is the reality we confront today. To deal with this threat, we need to give our Federal Government the necessary tools to prosecute those who would stage these hoaxes and disrupt the sense of normalcy that we have all struggled to recover since September 11th.

By Mr. HUTCHINSON (for himself and Mr. SESSION):

S. 1659. A bill to provide criminal penalties for communicating false information and hoaxes; to the Committee on the Judiciary.

Mr. HUTCHINSON. Madam President, I ask unanimous consent that a copy of the Terrorist Hoax Costs Recovery Act of 2001, which I am introducing today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Terrorist Hoax Costs Recovery Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the expert resources available to the Government to deal with Federal crimes involving actual or potential chemical, biological, and nuclear weapons are limited;

(2) false reporting of such crimes almost invariably requires the attention of Federal investigative, scientific, and public health officers and employees, thereby needlessly diverting them from work that is vital to the national security and dangerously impairing the Government's ability to deal with real situations;

(3) recent episodes amply demonstrate that even isolated false reports can have a substantial adverse effect on interstate and foreign commerce, causing needless worry or even panic in the general public, and encouraging copycat episodes; and

(4) a comprehensive prohibition on such false reports is necessary to preserve scarce and vital Federal resources, to avoid substantial adverse effects on interstate and foreign commerce, and to protect the national security of the United States.

SEC. 3. PROHIBITION.

(a) PROHIBITION ON HOAXES.—Chapter 41 of title 18, United States Code, is amended by adding after section 880 the following:

''§ 881. False information and hoaxes

''(a) CRIMINAL VIOLATION.—Whoever communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning the existence of activity which would constitute a violation of section 175, 229, or 831 shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) CIVIL PENALTY.—Whoever communicates information, knowing the information to be false, concerning the existence of activity which would constitute a violation of section 175, 229, or 831 is liable to the United States for a civil penalty of the greater of $10,000 or the amount expended by the United States incident to the investigation of such conduct, including the cost of any response made by any Federal military or civilian agency to protect public health or safety.

''(c) REIMBURSEMENT OF COSTS.—

''(1) CONVICTED DEFENDANT.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse the United States for any expenses incurred by the United States incident to the investigation of the commission by that person of such offense, including the cost of any response made by any Federal military or civilian agency to protect public health or safety.

''(2) JOINTLY AND SEVERALLY LIABLE.—A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for those expenses.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 41 of title 18, United States Code, is amended by adding after the item for section 880 the following:

''881. False information and hoaxes.''.

By Mrs. FEINSTEIN (for herself and Mr. KYL):

S. 1661. A bill to set up a certification system for research facilities that possess dangerous biological agents and toxins, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Madam President, I rise to introduce legislation, cosponsored by Senator KYL, to prohibit individuals from possessing anthrax, smallpox, and three dozen other of the most dangerous biological agents and toxins.

To date, 17 people have confirmed anthrax infections, four of whom died from inhalation anthrax. This toll, though tragic, could have grown exponentially if the perpetrators had used a more sophisticated delivery system.

Despite anthrax's and other agents' potential for weaponization, our government does not keep track of who possesses them. No special certification is required to possess these agents. Nor are background checks conducted on the laboratory personnel who handle or have access to these agents.

This situation must change.

The legislation I am introducing expands upon the antiterrorism bill Congress passed and the President signed just days ago. That bill prohibited an individual from possessing anthrax or other potential weapons of bioterror unless the individual could show legitimate purpose for holding the substance once caught. This standard of ''legitimate purpose;' is not defined, and will put the burden on courts and law enforcement to determine what a ''legitimate purpose'' is.

The fact is that current law still does not adequately prevent individual possession of these dangerous agents.

During a hearing in the Technology and Terrorism Subcommittee of the Judiciary Committee yesterday, it became clear to those of us on the committee that law enforcement does not know who has anthrax, where it is stored, or what is being done with it.

When asked if domestic laboratories were the source of the anthrax sent to Senator DASCHLE's office, the FBI witness said the FBI didn't know.

When asked how many labs in the United States handle anthrax or are capable of developing the highly refined anthrax used in the Daschle letter, the FBI answered again that it did not know.

When asked how many labs in the United States handle anthrax or are capable of devlopoing the highly refined anthrax used in the Daschle letter, the FBI answered again that it did not know.

And the same goes for more than three dozen other dangerous agents like small pox, ebola virus, and ricin.

Under our legislation, no individual could possess any of these dangerous agents, period.

Any medical or research lab wishing to possess or use these dangerous agents must first be certified by the United States Department of Health and Human Services.

Individuals in those labs who handle or who have access to these agents must undergo background checks, and the labs themselves must institute strict safety precautions.

And every single research lab, medical office, or other entity wishing to possess any one of these 40 some agents ruled dangerous by the CDC must demonstrate to the Secretary a legitimate purpose for that possession.

The purpose of the legislation is to assure that law enforcement and public health officials know much more about who has these agents, where and how they are stored, and what is being done with them.

Right now, we do not have this information.

Moreover, the bill will make it harder for terrorists to get access to these agents by requiring background checks and assuring that labs possessing these agents have adequately security safeguards.

I can think of no legitimate reason why an ordinary person needs to possess his or her personal cache of anthrax, small pox, or ebola virus.

According to the calculations of some experts, biological weapons are pound for pound potentially more lethal even than thermonuclear weapons.

For instance, a 1993 report by the U.S. Congressional Office of Technology Assessment estimated that between 130,000 and 3 million deaths could follow the aerosolized release of 100 keg of anthrax spores upwind of the Washington, DC area—lethally matching or exceeding that of a hydrogen bomb.

It is time to acknowledge that we live in a world where the government must take responsibility in protecting the public from those who would misuse these materials. No longer can we stand by and let the balance tip towards free possession of dangerous, even deadly, biological agents.

I urge my colleagues to support this bill.

By Mr. FEINGOLD:

S. 1664. A bill to require country of origin labeling of raw agricultural forms of ginseng, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Madam President, I rise today to introduce legislation that addresses the increased amount of smuggled and mis-labeled ginseng entering this country.

This legislation is similar to a bill that I introduced in the last Congress, but is strengthened with a number of provisions based on the suggestions from ginseng growers and the Ginseng Board of Wisconsin.

In addition to proposing a refined process of country-of-origin labeling for ginseng products, my new legislation closes a loophole in the regulations governing dietary supplements, where producers of products other than ginseng are currently advertising them as a type of ginseng.

In order to coordinate the efforts to eliminate the practice of ginseng smuggling, this legislation also requires the Department of Justice, EPA, and other Federal agencies to coordinate their efforts to crack down on smuggled ginseng, which often contains pesticides that are banned for use in the United States.

Chinese and Native American cultures have used ginseng for thousands of years for herbal and medicinal purposes.

In America, ginseng is experiencing a newfound popularity, and I am proud to say that my home State of Wisconsin is playing a central role in ginseng's resurgence.

Wisconsin produces 97 percent of the ginseng grown in the United States, and 85 percent of the country's ginseng is grown in Marathon County.

The ginseng industry is a economic boon to Marathon County, as well as an example of the high quality for which Wisconsin's agriculture industry is known.

Wisconsin ginseng commands a premium price in world markets because it is of the highest quality and because it has a lower pesticide and chemical content.

With a huge market for this high-quality ginseng overseas, and growing popularity for the ancient root here at home, Wisconsin's ginseng industry should have a prosperous future ahead.

Unfortunately, the outlook for ginseng farmers is marred by a serious problem—smuggled and mislabed ginseng. Wisconsin ginseng is considered so superior to ginseng grown abroad that smugglers will go to great lengths to label ginseng grown in Canada or Asia as ''Wisconsin-grown.''

Here's how the switch takes place: Smugglers take Asian or Canadian-growing ginseng and ship it to plants in China, allegedly to have the ginseng sorted into various grades.

Whle the sorting process is itself a legitimate part of distributing ginseng, smugglers often use it as a ruse to switch Wisconsin ginseng with the Asian or Canadian ginseng considered inferior by consumers.

The smugglers know that while Chinese-grown ginseng has a retail of about $5–$6 per pound, while Wisconsin-grown ginseng is valued at roughly $16–$20 per pound.

To make matters even tougher for Wisconsin's ginseng farmers, there is no accurate way of testing ginseng to determine where it was grown, other than testing for pesticides that are legal in Canada and China but are banned in the United States.

And in some cases, smugglers can even find ways around the pesticide

tests. Last year, a ConsumerLab.com study confirmed that much of the ginseng sold in the U.S. contained harmful chemicals and metals, such as lead and arsenic.

That is because the majority of ginseng sold in the U.S originates from countries with lower pesticide standards, so it's vitally important that consumers know which ginseng is really grown in Wisconsin.

Some domestic and foreign countries are also labeling certain products as ginseng when they are in fact a distinctly different product. Due to a loophole in the regulations governing dietary supplements, products other than ginseng are currently advertising themselves as a type of ginseng. For example, some products claim to include a product known as ''Siberian Ginseng,'' which is actually Eleu therococcus, a bush that is a distinctly different product from ginseng.

Ginseng is a root, not a bush, and consumers have the right to know that when they reach for a high quality ginseng product, they are buying just that—gingseng, not some ground up bush.

For the sake of ginseng farmers and consumers, the U.S. Senate must crack down on smuggled and mislabeled ginseng.

Without adequate labeling, consumers have no way of knowing the most basic information about the ginseng they purchase, where it was grown, what quality or grade it is, or whether it contains dangerous pesticides.

My legislation proposes some common sense steps to address two of the challenges facing the ginseng industry, and none of these proposals costs the taxpayers a dime.

The first section requires mandatory country of origin labeling at the port of entry, to prevent the practice of mixing foreign ginseng with domestic ginseng. This would allow buyers of ginseng to more easily prevent foreign companies from mixing foreign produced ginseng with ginseng produced in America. The country of origin labeling is a simple but effective way to enable consumers to make an informed decision.

This legislation also closes a loophole in U.S. law that allows products other than ginseng to advertise themselves as a type of ginseng. Under my proposal, when a consumer purchases a product labeled as containing ginseng, they will know what they are buying.

This legislation also requires the Department of Justice, EPA, and other Federal agencies to coordinate their efforts to crack down on smuggled ginseng, which often contains pesticides that are banned for use in the United States. The lax enforcement of smuggled ginseng also puts our producers on an unfair playing field. The mixing of superior Wisconsin ginseng with lower quality foreign ginseng root penalizes the grower and eliminates the incentive to provide the consumer with a superior product.

We must give ginseng growers the support they deserve by implementing these common sense reforms that also help consumers make informed choices about the ginseng that they consume.

We must ensure when ginseng consumers reach for a quality ginseng product, such as Wisconsin grown ginseng, that they are getting the real thing, not a cheap imitation.

By Mr. BIDEN (for himself and Mr. HATCH):

S. 1665. A bill to amend title 18, United States Code, with respect to false information regarding certain criminal violations concerning hoax reports of biological, chemical, and nuclear weapons; to the Committee on the Judiciary.

Mr. BIDEN. Madam President, I rise today to introduce the Protection Against Terrorist Hoaxes Act of 2001. I am honored to have the ranking member of the Judiciary Committee, Senator HATCH, as an original co-sponsor of this legislation. This bill would amend title 18 of the United States Code to, for the first time, make it a Federal crime to knowingly make a hoax report, involving a biological, chemical, nuclear weapon, or other weapon of mass destruction. Likewise, it would make it a criminal offense to knowingly send such a hoax weapon to another.

Since the unspeakable terrorist attacks of September 11, our nation has witnessed a mind-boggling number of anthrax hoax reports. This in turn has triggered an equally large number of reports of suspected biological agents. No part of the Nation has been spared, and my home State of Delaware has had several hundred reports of possible biological agents. Just this week, the FBI reported to Congress the staggering statistic involving these bioterrorism hoaxes and other reports of suspected biological agents. Prior to September 11, the FBI had responded to about 100 cases involving potential use of ''weapons of mass destruction,'' 67 of which involved alleged biological weapons. Since mid-September, however, that number has increased by 3,000 percent! As of today, the FBI reported that they have responded to 7,089 suspicious anthrax letters alone, 950 incidents involving other suspected weapons of mass destruction, and an estimated 29,331 telephonic calls from the public about suspicious packages.

The good news is that most of these reports were hoaxes, or reports made by well-meaning people whose suspicions were raised. The bad news is that any hoax reports were made in the first place, triggering panic on the part of the public, and often forcing the Federal, state, and local governments to waste valuable time and resources responding to them. In one particularly egregious case, it has been reported that an employee of the Connecticut Department of Environmental Protection falsely reported to security that he had found a yellowish-white powder on his desk with the misspelled label ''ANTHAX.'' The employee, a 48-year-old solid waste management analyst, knew the material was not toxic, it was determined to be coffee creamer, but persisted in the false account. 800 State employees were evacuated from the building for 2 days while law enforcement officials tested the building, at a cost of $1.5 million in lost workers' time, another $40,000 in decontamination costs, and an undisclosed amount of money spent on rescue and law enforcement. The employee is being charged in Federal court, not for the hoax report, but for lying to Federal officials after the fact.

Indeed, the Justice Department reported to Congress this week that there is a gap in the existing Federal law regarding the prosecution of bioterrorism hoaxes. That is, while it is a crime to threaten to use, for example, anthrax as a weapon against another person, it is not a crime to make a hoax anthrax report. Accordingly, the Justice Department called upon Congress this week to enact legislation which specifically addresses hoaxes which involve purported biological substances, as well as chemical, nuclear and other weapons of mass destruction.

We should answer that call and act now to give the law enforcement the tools they need to combat these despicable crimes. I introduced a bioterrorism bill, S. 3202, in the 106th Congress which contained an anti-hoax provision. Had that bill been enacted into law, Federal prosecutors would have the means to prosecute bioterrorism hoaxes. The need for a Federal anti-hoax provision has never been more clear than in the last several weeks. The Federal interest is indisputable, as States and localities are simply not equipped with the expertise or resources to evaluate and respond to these hoaxes. A comprehensive prohibition on such false reports is necessary to preserve scarce and vital federal resources.

Accordingly, as chairman of the Judiciary Subcommittee on Crime and Drugs, I introduce a bill today which contains both criminal provisions and civil penalties for the hoax reporting of bioterrorism incidents. My bill simply says that if you knowingly engage in conduct, such as deliberately sending baking powder through the mail to your Congressman or calling 911 to falsely report the presence of anthrax in a public building, that is likely to create the false impression concerning the presence of anthrax, or other similar things, that you have committed a Federal offense, punishable by up to 5

years in jail. Moreover, such a person may be fined the greater of either $10,000 or the amount of money expended by the government to respond to the false information. Finally, such a person may also be ordered to reimburse the government if costs were incurred in responding to the false hoax. Let me be clear, this bill will not target innocent mistakes or people who make a report concerning a suspected substance; it is aimed, rather, at deliberate hoax reports by those who know they are spreading false information.

I have said many times on the floor of this body that the terrorists win if they succeed in sowing seeds of panic into our daily lives. We cannot and will not let that happen. Similarly, we will not let these hoaxers get away with words and deeds which have the same effect.

By Mr. LEAHY:

S. 1666. A bill to prevent terrorist hoaxes and false reports; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, I rise to introduce the Anti-Terrorist Hoax and False Report Act of 2001. The bill would provide a new tool for law enforcement to deal with the problem of serious hoaxes and malicious false reports relating to the use of weapons of mass destruction, or biological, chemical, or nuclear weapons. These so-called ''hoaxes'' inflict both mental and economic damage on victims. They drain away scarce law enforcement resources from the investigation of real terrorist activity. They interrupt vital communication facilities. Finally, they feed a public fear that the vast majority of law abiding Americans are working hard to dispel.

Federal, State, and local law enforcement already have statutes which they have been using aggressively to prosecute those who have taken advantage of these times to perpetrate hoaxes about anthrax contamination. Existing statutes create serious penalties for threats to use biological, chemical, or nuclear weapons, for sending any threatening communication through the mail, or for making a willful false statement to federal authorities.

For example 18 U.S.C. §§175, 229, 2332a, and 831 all have their own threat provisions punishable by up to life imprisonment. In addition, 18 U.S.C. §876 makes it a five year felony to mail a threatening communication of any type; and 18 U.S.C. §1001 makes it a five year felony to willfully make any false statement, or even willfully omit a material fact in a matter under the jurisdiction of a federal agency.

In a recent Subcommittee hearing of the Judiciary Committee, James T. Caruso, the Deputy Assistant Director of the FBI's Counter-terrorism Division, stated that there are at least 11 Federal hoax cases which have actually been charged under existing statutes since September 11, 2001. Just last week a Federal conviction was obtained in Oakland, California under 18 U.S.C. §175, which carries a statutory maximum penalty of life imprisonment, for an anthrax hoax which occurred back in January of 1999. Thus, existing Federal statutes are already being employed to prosecute these cases when Federal prosecution is appropriate. In addition, numerous State provisions are available and are being used to prosecute these cases at the State and local level.

Indeed, current Federal threat laws do not require that the defendant have either the intent or present ability to carry out a threat, which enables prosecutors to use such laws to prosecute these serious hoaxes. At the same terrorism hearing, Deputy Assistant Director Caruso made it clear that authorities are able to prosecute even ''non-credible'' threats under current Federal laws. However, while they carry high penalties, including a maximum of life imprisonment, at the same hearing James Reynolds, from the Department of Justice's Section on Terrorism and Violent Crime, indicated that these statutes can sometimes be awkward when applied in the hoax context.

What this bill provides, is a well tailored statute that deals specifically with the problem of biological, chemical, mass destruction, and nuclear ''hoaxes'', that is, actions taken with the malicious intent to deceive the victim. For instance, it gives prosecutors a means to distinguished between a person who is actually threatening to use anthrax on a victim on one hand, and a person who never intends to use it, but truly wants the victim or the police to think they have done so, on the other. In the later case the statute creates a new five year felony.

The bill requires that the defendant act ''knowingly and maliciously,'' so that we do not federalize juvenile pranks or the misguided though innocent spreading of rumors. For instance, a local prosecutor in Chicago recently placed an envelope containing sugar on a colleague's desk. He was administratively punished by being forced to resign from his job. In Utah, a disabled miner was charged locally because he put sugar and Nesquik into a junk mail envelope. In Anne Arundel County, MD, two juveniles were arrested after they placed powder in an envelope and did not even mail it, but it was found by someone else and reported, engendering an unintended emergency response. In Ohio, a security guard ''super-glued'' a telephone in a county welfare building, and when the glue left a powdery residue it caused a anthrax scare. In Williamsport, PA a firefighter is being prosecuted locally on a felony charge for claiming that he received a letter containing white powder at his home. These types of incidents do not merit a lengthy term in Federal prison. As the examples I have listed above demonstrate, we have appropriately serious ways to deal with cases when Federal criminal prosecution is not needed.

Indeed, law enforcement agencies or private companies of the conduct ''readiness testing'' so that they will be able to deal with serious chemical or biological weapon threats. For instance, three weeks ago a Kentucky sheriff conducted such a readiness drill by leaving an envelope filled with crushed aspirin on a desk at a county courthouse in order to test the response. Requiring a malicious mens rea will ensure also that we do not criminalize or chill this type of admirable proactive effort. In sum, malicious acts deserve Federal felony prosecution; innocent bad judgment and juvenile behavior do not, and neither do laudable efforts by police and private actors to preserve readiness for biological or chemical attack.

Another provision in the bill would provide for mandatory restitution to any victim of these crimes, including the costs of any and all government response to the hoax. An earlier Administration proposal, offered during the debate over the terrorism bill, would have limited such restitution to only the federal government. As we know all too well from recent events, however, it is state and local authorities, along with private victims, who are often the first responders and primary victims when these incidents occur. This bill would provide a mechanism so that they too can be reimbursed for their expenses.

For all of these reasons, I am pleased to introduce this legislation and I urge its swift enactment into law.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Anti Terrorist Hoax and False Report Act of 2001''.

SEC. 2. HOAXES, FALSE REPORTS, AND RESTITUTION.

(a) IN GENERAL.—Chapter 41 of title 18, United States Code, is amended by inserting after section 880 the following:

''§ 881. Terrorist Hoaxes and False Information

''(a) IN GENERAL.—Whoever knowingly and maliciously imparts, conveys, or communicates information or material, knowing the information or material to be false or fraudulent, and under circumstances in which such information or material may reasonably be believed and is reasonably likely to cause any response by a Federal, State, or local government agency, concerning the existence of activity that would constitute a violation of section 175, 229, 2332a, or 831 of

this title, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) RESTITUTION.—Notwithstanding and in addition to sections 3663, or 3663A of this title and any other civil or criminal penalty authorized by law, the court shall order—

''(1) restitution to all victims of an offense under subsection (a), including any losses suffered by a victim as a proximate result of the offense; and

''(2) the defendant to reimburse all Federal, State, and local government, entities for any expenses incurred in response to the offense to protect public health or safety.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 41 of title 18, United States Code, is amended by inserting at the end the following:

''881. Terrorist hoaxes and false information.''.

By Mr. DOMENICI:

S. 1667. A bill to ensure that nuclear energy continues to contribute to the supply of electricity in the United States; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Madam President, I rise to introduce a modified version of my Nuclear Energy Electricity Supply Assurance Act of 2001. When I first introduced this measure, S. 472, it contained a provision known as Section 127, relating to special demonstration projects for the uranium mining industry.

This section was intended to create cooperative, cost-shared, agreements between the Department of Energy and the domestic uranium industry to identify, test, and develop improved in-situ leaching mining technologies. In addition, I intended that this initiative apply to low-cost environmental restoration that may be applied to sites after completion of in-situ leaching operations. Finally, Sec. 127 was intended to fund competitively-selected demonstration projects with the domestic uranium mining industry relating to enhanced production with improved environmental protection, restoration of well fields, and decommissioning and decontamination activities.

I believe that the intent and spirit of Sec. 127 still have substantial merit. I hope that we can provide incentives for improved mining techniques and improved environmental restoration. However, Sec. 127 was subject to substantial mis-interpretation, especially among many people in the Navajo Nation in northwest New Mexico. It was claimed that this Section was directed toward helping a single company that might use it to expand in-situ mining near the Navajo Nation's borders. It was further claimed that such an approach might over a long period of time contaminate drinking water in the area.

At no time was my bill intended to help any specific company. At no time did we intend anything other than improving environmental restoration and giving some hope to the domestic uranium industry that it might find an environmentally sound way to produce more domestic product.

However, after discussing this issue with the president of the Navajo Nation and other members of the nation, I have decided that the best course, in order to put to rest all of the concerns expressed, is to simply strike Section 127 from my bill. I should add that some members of the Navajo Nation supported Section 127; but, the clear message from my friends on the Navajo Nation is that they would prefer, in order to avoid any confusion, that I delete Section 127 from my bill.

Thus, the modified Act that I introduce today is identical to S. 471, with the exception that I have deleted entirely Section 127, relating to special demonstration projects. I talked to the president of the Navajo Nation this afternoon and he thanked me for this action.

Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Nuclear Energy Electricity Supply Assurance Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

Congress finds that—

(1) the standard of living for citizens of the United States is linked to the availability of reliable, low-cost, energy supplies;

(2) personal use patterns, manufacturing processes, and advanced cyber information all fuel increases in the demand for electricity;

(3) demand-side management, while important, is not likely to halt the increase in energy demand;

(4)(A) nuclear power is the largest producer of essentially emission-free electricity;

(B) nuclear energy is one of the few energy sources that controls all pollutants;

(C) nuclear plants are demonstrating excellent reliability as the plants produce power at low cost with a superb safety record; and

(D) the generation costs of nuclear power are not subject to price fluctuations of fossil fuels because nuclear fuels can be mined domestically or purchased from reliable trading partners;

(5) requirements for new highly reliable baseload generation capacity coupled with increasing environmental concerns and limited long-term availability of fossil fuels require that the United States preserve the nuclear energy option into the future;

(6) to ensure the reliability of electricity supply and delivery, the United States needs programs to encourage the extended or more efficient operation of currently existing nuclear plants and the construction of new nuclear plants;

(7) a qualified workforce is a prerequisite to continued safe operation of—

(A) nuclear plants;

(B) the nuclear navy;

(C) programs dealing with high-level or low-level waste from civilian or defense facilities; and

(D) research and medical uses of nuclear technologies;

(8) uncertainty surrounding the costs associated with regulatory approval for siting, constructing, and operating nuclear plants confuses the economics for new plant investments;

(9) to ensure the long-term reliability of supplies of nuclear fuel, the United States must ensure that the domestic uranium mining, conversion, and enrichment service industries remain viable;

(10)(A) technology developed in the United States and worldwide, broadly labeled as the Generation IV Reactor, is demonstrating that new designs of nuclear reactors are feasible;

(B) plants using the new designs would have improved safety, minimized proliferation risks, reduced spent fuel, and much lower costs; and

(C)(i) the nuclear facility infrastructure needed to conduct nuclear energy research and development in the United States has been allowed to erode over the past decade; and

(ii) that infrastructure must be restored to support development of Generation IV nuclear energy systems;

(11)(A) to ensure the long-term viability of nuclear power, the public must be confident that final waste forms resulting from spent fuel are controlled so as to have negligible impact on the environment; and

(B) continued research on repositories, and on approaches to mitigate the toxicity of materials entering any future repository, would serve that public interest; and

(12)(A) the Nuclear Regulatory Commission must continue its stewardship of the safety of our nuclear industry;

(B) at the same time, the Commission must streamline processes wherever possible to provide timely responses to a wide range of safety, upgrade, and licensing issues;

(C) the Commission should conduct research on new reactor technologies to support future regulatory decisions; and

(D) a revision of certain Commission procedures would assist in more timely processing of license applications and other requests for regulatory action.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Nuclear Regulatory Commission.

(2) EARLY SITE PERMIT.—The term ''Early Site Permit'' means a permit for a site to be a future location for a nuclear plant under subpart A of part 52 of title 10, Code of Federal Regulations.

(3) NUCLEAR PLANT.—The term ''nuclear plant'' means a nuclear energy facility that generates electricity.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

TITLE I—SUPPORT FOR CONTINUED USE OF NUCLEAR ENERGY

Subtitle A—Price-Anderson Amendments

SEC. 101. SHORT TITLE.

This subtitle may be cited as the ''Price-Anderson Amendments Act of 2001''.

SEC. 102. INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES''; and

(2) by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking '', until August 1, 2002,''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.

SEC. 103. MAXIMUM ASSESSMENT.

Section 170b.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)(1)) is amended in the second proviso of the third sentence by striking ''$10,000,000'' and inserting ''$20,000,000''.

SEC. 104. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) AGGREGATE LIABILITY LIMIT.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

''(2) LIABILITY LIMIT.—In an agreement of indemnification entered into under paragraph (1), the Secretary—

''(A) may require the contractor to provide and maintain the financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

''(B) shall indemnify the persons indemnified against such claims above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.''.

(b) CONTRACT AMENDMENTS.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (3) and inserting the following:

''(3) CONTRACT AMENDMENTS.—All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person, shall be deemed to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2001, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection on that date.''.

SEC. 105. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

(b) LIABILITY LIMIT.—Section 170e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

SEC. 106. REPORTS.

Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''August 1, 2008''.

SEC. 107. INFLATION ADJUSTMENT.

Section 170t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by designating paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following:

''(2) ADJUSTMENT.—The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following the date of enactment of the Price-Anderson Amendments Act of 2001, in accordance with the aggregate percentage change in the Consumer Price Index since—

''(A) that date of enactment, in the case of the first adjustment under this subsection; or

''(B) the previous adjustment under this subsection.''.

SEC. 108. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234Ab.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NONPROFIT INSTITUTIONS.—Section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a) is amended by striking subsection d. and inserting the following:

''d. Notwithstanding subsection a., no contractor, subcontractor, or supplier of the Department of Energy that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Code shall be subject to a civil penalty under this section in any fiscal year in excess of the amount of any performance fee paid by the Secretary during that fiscal year to the contractor, subcontractor, or supplier under the contract under which a violation occurs.''.

SEC. 109. APPLICABILITY.

(a) INDEMNIFICATION PROVISIONS.—The amendments made by sections 103, 104, and 105 do not apply to a nuclear incident that occurs before the date of enactment of this Act.

(b) CIVIL PENALTY PROVISIONS.—The amendments made by section 108(b) do not apply to a violation that occurs under a contract entered into before the date of enactment of this Act.

Subtitle B—Leadership of the Office of Nuclear Energy, Science, and Technology and the Office of Science

SEC. 111. ASSISTANT SECRETARIES.

(a) IN GENERAL.—Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended in the matter preceding paragraph (1) by striking ''eight'' and inserting ''ten''.

(b) FUNCTIONS.—On appointment of the 2 additional Assistant Secretaries of Energy under the amendment made by subsection (a), the Secretary shall assign—

(1) to one of the Assistant Secretaries, the functions performed by the Director of the Office of Science as of the date of enactment of this Act; and

(2) to the other, the functions performed by the Director of the Office of Nuclear Energy, Science, and Technology as of that date.

Subtitle C—Funding of Certain Department of Energy Programs

SEC. 121. ESTABLISHMENT OF PROGRAMS.

The Secretary shall establish or continue programs administered by the Office of Nuclear Energy, Science, and Technology to—

(1) support the Nuclear Energy Research Initiative, the Nuclear Energy Plant Optimization Program, and the Nuclear Energy Technology Program;

(2) encourage investments to increase the electricity capacity at commercial nuclear plants in existence on the date of enactment of this Act;

(3) ensure continued viability of a domestic capability for uranium mining, conversion, and enrichment industries; and

(4) support university nuclear engineering education research and infrastructure programs, including closely related specialties such as health physics, actinide chemistry, and material sciences.

SEC. 122. NUCLEAR ENERGY RESEARCH INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, for a Nuclear Energy Research Initiative to be managed by the Director of the Office of Nuclear Energy, Science, and Technology for grants to be competitively awarded and subject to peer review for research relating to nuclear energy—

(1) $60,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 through 2006.

(b) REPORTS.—The Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate an annual report on the activities of the Nuclear Energy Research Initiative.

SEC. 123. NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for a Nuclear Energy Plant Optimization Program to be managed by the Director of the Office of Nuclear Energy, Science, and Technology for a joint program with industry cost-shared by at least 50 percent and subject to annual review by the Secretary of Energy's Nuclear Energy Research Advisory Committee—

(1) $15,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 through 2006.

(b) REPORTS.—The Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate an annual report on the activities of the Nuclear Energy Plant Optimization Program.

SEC. 124. UPRATING OF NUCLEAR PLANT OPERATIONS.

(a) IN GENERAL.—The Secretary, to the extent funds are available, shall reimburse costs incurred by a licensee of a nuclear plant as provided in this section.

(b) PAYMENT OF COMMISSION USER FEES.—In carrying out subsection (a), the Secretary shall reimburse all user fees incurred by a licensee of a nuclear plant for obtaining the approval of the Commission to achieve a permanent increase in the rated electricity capacity of the licensee's nuclear plant if the licensee achieves the increased capacity before December 31, 2004.

(c) PREFERENCE.—Preference shall be given by the Secretary to projects in which a single uprating operation can benefit multiple domestic nuclear power reactors.

(d) INCENTIVE PAYMENTS.—

(1) IN GENERAL.—In addition to payments made under subsection (a), the Secretary shall offer an incentive payment equal to 10 percent of the capital improvement cost resulting in a permanent increase of at least 5 percent in the rated electricity capacity of the licensee's nuclear plant if the licensee achieves the increased capacity rating before December 31, 2004.

(2) LIMITATION.—No incentive payment under paragraph (1) associated with any single nuclear unit shall exceed $1,000,000.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2002 and 2003.

SEC. 125. UNIVERSITY PROGRAMS.

(a) IN GENERAL.—The Secretary may, as provided in this section, provide grants and other forms of payment to further the national goal of producing well-educated graduates in nuclear engineering and closely related specialties that support nuclear energy programs such as health physics, actinide chemistry, and material sciences.

(b) SUPPORT FOR UNIVERSITY RESEARCH REACTORS.—The Secretary may provide grants and other forms of payments for plant upgrading to universities in the United States that operate and maintain nuclear research reactors.

(c) SUPPORT FOR UNIVERSITY RESEARCH AND DEVELOPMENT.—The Secretary may provide grants and other forms of payment for research and development work by faculty, staff, and students associated with nuclear engineering programs and closely related specialties at universities in the United States.

(d) SUPPORT FOR NUCLEAR ENGINEERING STUDENTS AND FACULTY.—The Secretary may provide fellowships, scholarships, and other support to students and to departments of nuclear engineering and closely related specialties at universities in the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $34,200,000 for fiscal year 2002, of which—

(A) $13,000,000 shall be available to carry out subsection (b);

(B) $10,200,000 shall be available to carry out subsection (c) of which not less than $2,000,000 shall be available to support health physics programs; and

(C) $11,000,000 shall be available to carry out subsection (d) of which not less than $2,000,000 shall be available to support health physics programs; and

(2) such sums as are necessary for subsequent fiscal years.

SEC. 126. PROHIBITION OF COMMERCIAL SALES OF URANIUM AND CONVERSION HELD BY THE DEPARTMENT OF ENERGY UNTIL 2006.

Section 3112(b) of the USEC Privatization Act (42 U.S.C. 2297h–10(b)) is amended by striking paragraph (2) and inserting the following:

''(2) SALE OF URANIUM HEXAFLUORIDE.—

''(A) IN GENERAL.—The Secretary shall—

''(i) sell and receive payment for the uranium hexafluoride transferred to the Secretary under paragraph (1); and

''(ii) refrain from sales of its surplus natural uranium and conversion services through 2006 (except sales or transfers to the Tennessee Valley Authority in relation to the Department's HEU or Tritium programs, minor quantities associated with site cleanup projects, or the Department of Energy research reactor sales program).

''(B) REQUIREMENTS.—Under subparagraph (A)(i), uranium hexafluoride shall be sold—

''(i) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or

''(ii) in 2006 for consumption by end users in the United States not before January 1, 2007, and in subsequent years, in volumes not to exceed 3,000,000 pounds U_3O_8 equivalent per year.''.

SEC. 127. MAINTENANCE OF A VIABLE DOMESTIC URANIUM CONVERSION INDUSTRY.

(a) IN GENERAL.—For Department of Energy expenses necessary in providing to Converdyn Incorporated a payment for losses associated with providing conversion services for the production of low-enriched uranium (excluding imports related to actions taken under the United States/Russia HEU Agreement), there is authorized to be appropriated $8,000,000 for each of fiscal years 2002, 2003, and 2004.

(b) RATE.—The payment shall be at a rate, determined by the Secretary, that—

(1)(A) is based on the difference between Converdyn's costs and its sale price for providing conversion services for the production of low-enriched uranium fuel; but

(B) does not exceed the amount appropriated under subsection (a); and

(2) shall be based contingent on submission to the Secretary of a financial statement satisfactory to the Secretary that is certified by an independent auditor for each year.

(c) TIMING.—A payment under subsection (a) shall be provided as soon as practicable after receipt and verification of the financial statement submitted under subsection (b).

SEC. 128. PORTSMOUTH GASEOUS DIFFUSION PLANT.

(a) IN GENERAL.—The Secretary may proceed with actions required to place the Portsmouth gaseous diffusion plant into cold standby condition for a period of 5 years.

(b) PLANT CONDITION.—In the cold standby condition, the plant shall be in a condition that—

(1) would allow its restart, for production of 3,000,000 separative work units per year, to meet domestic demand for enrichment services; and

(2) will facilitate the future decontamination and decommissioning of the plant.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $36,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003, 2004, and 2005.

SEC. 129. NUCLEAR GENERATION REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit to Congress a report on the state of nuclear power generation in the United States.

(b) CONTENTS.—The report shall—

(1) provide current and historical detail regarding—

(A) the number of commercial nuclear plants and the amount of electricity generated; and

(B) the safety record of commercial nuclear plants;

(2) review the status of the relicensing process for commercial nuclear plants, including—

(A) current and anticipated applications; and

(B) for each current and anticipated application—

(i) the anticipated length of time for a license renewal application to be processed; and

(ii) the current and anticipated costs of each license renewal;

(3) assess the capability of the Commission to evaluate licenses for new advanced reactor designs and discuss the confirmatory and

anticipatory research activities needed to support that capability;

(4) detail the efforts of the Commission to prepare for potential new commercial nuclear plants, including evaluation of any new plant design and the licensing process for nuclear plants;

(5) state the anticipated length of time for a new plant license to be processed and the anticipated cost of such a process; and

(6) include recommendations for improvements in each of the processes reviewed.

TITLE II—CONSTRUCTION OF NUCLEAR PLANTS

SEC. 201. ESTABLISHMENT OF PROGRAMS.

(a) SECRETARY.—The Secretary shall establish a program within the Office of Nuclear Energy, Science, and Technology to—

(1) demonstrate the Nuclear Regulatory Commission Early Site Permit process;

(2) evaluate opportunities for completion of partially constructed nuclear plants; and

(3) develop a report assessing opportunities for Generation IV reactors.

(b) COMMISSION.—The Commission shall develop a research program to support regulatory actions relating to new nuclear plant technologies.

SEC. 202. NUCLEAR PLANT COMPLETION INITIATIVE.

(a) IN GENERAL.—The Secretary shall solicit information on United States nuclear plants requiring additional capital investment before becoming operational or being returned to operation to determine which, if any, should be included in a study of the feasibility of completing and operating some or all of the nuclear plants by December 31, 2004, considering technical and economic factors.

(b) IDENTIFICATION OF UNFINISHED NUCLEAR PLANTS.—The Secretary shall convene a panel of experts to—

(1) review information obtained under subsection (a); and

(2) identify which unfinished nuclear plants should be included in a feasibility study.

(c) TECHNICAL AND ECONOMIC COMPLETION ASSESSMENT.—On completion of the identification of candidate nuclear plants under subsection (b), the Secretary shall commence a detailed technical and economic completion assessment that includes, on a unit-specific basis, all technical and economic information necessary to permit a decision on the feasibility of completing work on any or all of the nuclear plants identified under subsection (b).

(d) SOLICITATION OF PROPOSALS.—After making the results of the feasibility study under subsection (c) available to the public, the Secretary shall solicit proposals for completing construction on any or all of the nuclear plants assessed under subsection (c).

(e) SELECTION OF PROPOSALS.—

(1) IN GENERAL.—The Secretary shall reconvene the panel of experts designated under subsection (b) to review and select the nuclear plants to be pursued, taking into consideration any or all of the following factors:

(A) Location of the nuclear plant and the regional need for expanded power capability.

(B) Time to completion.

(C) Economic and technical viability for completion of the nuclear plant.

(D) Financial capability of the offeror.

(E) Extent of support from regional and State officials.

(F) Experience and past performance of the members of the offeror in siting, constructing, or operating nuclear generating facilities.

(G) Lowest cost to the Government.

(2) REGIONAL AND STATE SUPPORT.—No proposal shall be accepted without endorsement by the State Governor and by the elected governing bodies of—

(A) each political subdivision in which the nuclear plant is located; and

(B) each other political subdivision that the Secretary determines has a substantial interest in the completion of the nuclear plant.

(f) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than June 1, 2002, the Secretary shall submit to Congress a report describing the reactors identified for completion under subsection (e).

(2) CONTENTS.—The report shall—

(A) detail the findings under each of the criteria specified in subsection (e); and

(B) include recommendations for action by Congress to authorize actions that may be initiated in fiscal year 2003 to expedite completion of the reactors.

(3) CONSIDERATIONS.—In making recommendations under paragraph (2)(B), the Secretary shall consider—

(A) the advisability of authorizing payment by the Government of Commission user fees (including consideration of the estimated cost to the Government of paying such fees); and

(B) other appropriate considerations.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000 for fiscal year 2002.

SEC. 203. EARLY SITE PERMIT DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall initiate a program of Government/private partnership demonstration projects to encourage private sector applications to the Commission for approval of sites that are potentially suitable to be used for the construction of future nuclear power generating facilities.

(b) PROJECTS.—Not later than 60 days after the date of enactment of this Act, the Secretary shall issue a solicitation of offers for proposals from private sector entities to enter into partnerships with the Secretary to—

(1) demonstrate the Early Site Permit process; and

(2) create a bank of approved sites by December 31, 2003.

(c) CRITERIA FOR PROPOSALS.—A proposal submitted under subsection (b) shall—

(1) identify a site owned by the offeror that is suitable for the construction and operation of a new nuclear plant; and

(2) state the agreement of the offeror to pay not less than ½ of the costs of—

(A) preparation of an application to the Commission for an Early Site Permit for the site identified under paragraph (1); and

(B) review of the application by the Commission.

(d) SELECTION OF PROPOSALS.—The Secretary shall establish a competitive process to review and select the projects to be pursued, taking into consideration the following:

(1) Time to prepare the application.

(2) Site qualities or characteristics that could affect the duration of application review.

(3) The financial capability of the offeror.

(4) The experience of the offeror in siting, constructing, or operating nuclear plants.

(5) The support of regional and State officials.

(6) The need for new electricity supply in the vicinity of the site, or proximity to suitable transmission lines.

(7) Lowest cost to the Government.

(e) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with up to 3 offerors selected through the competitive process to pay not more than ½ of the costs incurred by the parties to the agreements for—

(1) preparation of an application to the Commission for an Early Site Permit for the site; and

(2) review of the application by the Commission.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2002 and 2003, to remain available until expended.

SEC. 204. NUCLEAR ENERGY TECHNOLOGY STUDY FOR GENERATION IV REACTORS.

(a) IN GENERAL.—The Secretary shall conduct a study of Generation IV nuclear energy systems, including development of a technology roadmap and performance of research and development necessary to make an informed technical decision regarding the most promising candidates for commercial deployment.

(b) UPGRADES AND ADDITIONS.—The Secretary may make upgrades or additions to the nuclear energy research facility infrastructure as needed to carry out the study under subsection (a).

(c) REACTOR CHARACTERISTICS.—To the extent practicable, in conducting the study under subsection (a), the Secretary shall study nuclear energy systems that offer the highest probability of achieving the goals for Generation IV nuclear energy systems established by the Nuclear Energy Research Advisory Committee, including—

(1) economics competitive with natural gas-fueled generators;

(2) enhanced safety features or passive safety features;

(3) substantially reduced production of high-level waste, as compared with the quantity of waste produced by reactors in operation on the date of enactment of this Act;

(4) highly proliferation resistant fuel and waste;

(5) sustainable energy generation including optimized fuel utilization; and

(6) substantially improved thermal efficiency, as compared with the thermal efficiency of reactors in operation on the date of enactment of this Act.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with—

(1) the Commission, with respect to evaluation of regulatory issues; and

(2) the International Atomic Energy Agency, with respect to international safeguards.

(d) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2002, the Secretary shall submit to Congress a report describing the results of the roadmap and plans for research and development leading to a public/private cooperative demonstration of one or more Generation IV nuclear energy systems.

(2) CONTENTS.—The report shall contain—

(A) an assessment of all available technologies;

(B) a summary of actions needed for the most promising candidates to be considered as viable commercial options within the five to ten years after the date of the report with consideration of regulatory, economic, and technical issues;

(C) a recommendation of not more than three promising Generation IV nuclear energy system concepts for further development;

(D) an evaluation of opportunities for public/private partnerships;

(E) a recommendation for structure of a public/private partnership to share in development and construction costs;

(F) a plan leading to the selection and conceptual design, by September 30, 2004, of at least one Generation IV nuclear energy system for demonstration through a public/private partnership; and

(G) a recommendation for appropriate involvement of the Commission.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $50,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 through 2006.

SEC. 205. RESEARCH SUPPORTING REGULATORY PROCESSES FOR NEW REACTOR TECHNOLOGIES AND DESIGNS.

(a) IN GENERAL.—The Commission shall develop a comprehensive research program to support resolution of potential licensing issues associated with new reactor concepts and new technologies that may be incorporated into new or current designs of nuclear plants.

(b) IDENTIFICATION OF CANDIDATE DESIGNS.—The Commission shall work with the Office of Nuclear Energy, Science, and Technology and the nuclear industry to identify candidate designs to be addressed by the program.

(c) ACTIVITIES TO BE INCLUDED.—The research shall include—

(1) modeling, analyses, tests, and experiments as required to provide input into total system behavior and response to hypothesized accidents; and

(2) consideration of new reactor technologies that may affect—

(A) risk-informed licensing of new plants;

(B) behavior of advanced fuels;

(C) evolving environmental considerations relative to spent fuel management and health effect standards;

(D) new technologies (such as advanced sensors, digital instrumentation, and control) and human factors that affect the application of new technology to current plants; and

(E) other emerging technical issues.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $25,000,000 for fiscal year 2002; and

(2) such sums as are necessary for subsequent fiscal years.

TITLE III—EVALUATIONS OF NUCLEAR ENERGY

SEC. 301. ENVIRONMENTALLY PREFERABLE PURCHASING.

(a) ACQUISITION.—For the purposes of Executive Order No. 13101 (3 C.F.R. 210 (1998)) and policies established by the Office of Federal Procurement Policy or other executive branch offices for the acquisition or use of environmentally preferable products (as defined in section 201 of the Executive order), electricity generated by a nuclear plant shall be considered to be an environmentally preferable product.

(b) PROCUREMENT.—No Federal procurement policy or program may—

(1) discriminate against or exclude nuclear generated electricity in making purchasing decisions; or

(2) subscribe to product certification programs or recommend product purchases that exclude nuclear electricity.

SEC. 302. EMISSION-FREE CONTROL MEASURES UNDER A STATE IMPLEMENTATION PLAN.

(a) DEFINITIONS.—In this section:

(1) CRITERIA AIR POLLUTANT.—The term ''criteria air pollutant'' means a pollutant listed under section 108(a) of the Clean Air Act (42 U.S.C. 7408(a)).

(2) EMISSION-FREE ELECTRICITY SOURCE.—The term ''emission-free electricity source'' means—

(A) a facility that generates electricity without emitting criteria pollutants, hazardous pollutants, or greenhouse gases as a result of onsite operations of the facility; and

(B) a facility that generates electricity using nuclear fuel that meets all applicable standards for radiological emissions under section 112 of the Clean Air Act (42 U.S.C. 7412).

(3) GREENHOUSE GAS.—The term ''greenhouse gas'' means a natural or anthropogenic gaseous constituent of the atmosphere that absorbs and re-emits infrared radiation.

(4) HAZARDOUS POLLUTANT.—The term ''hazardous pollutant'' has the meaning given the term in section 112(a) of the Clean Air Act (42 U.S.C. 7412(a)).

(5) IMPROVEMENT IN AVAILABILITY.—The term ''improvement in availability'' means an increase in the amount of electricity produced by an emission-free electricity source that provides a commensurate reduction in output from emitting sources.

(6) INCREASED EMISSION-FREE CAPACITY PROJECT.—The term ''increased emission-free capacity project'' means a project to construct an emission-free electricity source or increase the rated capacity of an existing emission-free electricity source.

(b) TREATMENT OF CERTAIN STATE ACTIONS AS CONTROL MEASURES.—An action taken by a State to support the continued operation of an emission-free electricity source or to support an improvement in availability or an increased emission-free capacity project shall be considered to be a control measure for the purposes of section 110(a) of the Clean Air Act (42 U.S.C. 7410(a)).

(c) ECONOMIC INCENTIVE PROGRAMS.—

(1) CRITERIA AIR POLLUTANTS AND HAZARDOUS POLLUTANTS.—Emissions of criteria air pollutants or hazardous pollutants prevented or avoided by an improvement in availability or the operation of increased emission-free capacity shall be eligible for, and may not be excluded from, incentive programs used as control measures, including programs authorizing emission trades, revolving loan funds, tax benefits, and special financing programs.

(2) GREENHOUSE GASES.—Emissions of greenhouse gases prevented or avoided by an improvement in availability or the operation of increased emission-free capacity shall be eligible for, and may not be excluded from, incentive programs used as control measures on the national, regional State, or local level.

SEC. 304. PROHIBITION OF DISCRIMINATION AGAINST EMISSION-FREE ELECTRICITY PROJECTS IN INTERNATIONAL DEVELOPMENT PROGRAMS.

(a) PROHIBITION.—No Federal funds shall be used to support a domestic or international organization engaged in the financing, development, insuring, or underwriting of electricity production facilities if the activities fail to include emission-free electricity production facility projects that use nuclear fuel.

(b) REQUEST FOR POLICIES.—The Secretary of Energy shall request copies of all written policies regarding the eligibility of emission-free nuclear electricity production facilities for funding or support from international or domestic organizations engaged in the financing, development, insuring, or underwriting of electricity production facilities, including—

(1) the Agency for International Development;

(2) the World Bank;

(3) the Overseas Private Investment Corporation;

(4) the International Monetary Fund; and

(5) the Export-Import Bank.

TITLE IV—DEVELOPMENT OF NATIONAL SPENT NUCLEAR FUEL STRATEGY

SEC. 401. FINDINGS.

Congress finds that—

(1) before the Federal Government takes any irreversible action relating to the disposal of spent nuclear fuel, Congress must determine whether the spent fuel should be treated as waste subject to permanent burial or should be considered to be an energy resource that is needed to meet future energy requirements; and

(2) national policy on spent nuclear fuel may evolve with time as improved technologies for spent fuel are developed or as national energy needs evolve.

SEC. 402. OFFICE OF SPENT NUCLEAR FUEL RESEARCH.

(a) DEFINITIONS.—In this section:

(1) ASSOCIATE DIRECTOR.—The term ''Associate Director'' means the Associate Director of the Office.

(2) OFFICE.—The term ''Office'' means the Office of Spent Nuclear Fuel Research established by subsection (b).

(b) ESTABLISHMENT.—There is established an Office of Spent Nuclear Fuel Research within the Office of Nuclear Energy Science and Technology of the Department of Energy.

(c) HEAD OF OFFICE.—The Office shall be headed by the Associate Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Nuclear Energy Science and Technology, and compensated at a rate determined by applicable law.

(d) DUTIES OF THE ASSOCIATE DIRECTOR.—

(1) IN GENERAL.—The Associate Director shall be responsible for carrying out an integrated research, development, and demonstration program on technologies for treatment, recycling, and disposal of high-level nuclear radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary.

(2) PARTICIPATION.—The Associate Director shall coordinate the participation of national laboratories, universities, the commercial nuclear industry, and other organizations in the investigation of technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste.

(3) ACTIVITIES.—The Associate Director shall—

(A) develop a research plan to provide recommendations by 2015;

(B) identify promising technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste;

(C) conduct research and development activities for promising technologies;

(D) ensure that all activities include as key objectives minimization of proliferation concerns and risk to health of the general public or site workers, as well as development of cost-effective technologies;

(E) require research on both reactor- and accelerator-based transmutation systems;

(F) require research on advanced processing and separations;

(G) include participation of international collaborators in research efforts, and provide funding to a collaborator that brings unique capabilities not available in the United

States if the country in which the collaborator is located is unable to provide support; and

(H) ensure that research efforts are coordinated with research on advanced fuel cycles and reactors conducted by the Office of Nuclear Energy Science and Technology.

(e) GRANT AND CONTRACT AUTHORITY.—The Secretary may make grants, or enter into contracts, for the purposes of the research projects and activities described in subsection (d)(3).

(f) REPORT.—The Associate Director shall annually submit to Congress a report on the activities and expenditures of the Office that describes the progress being made in achieving the objectives of this section.

SEC. 403. ADVANCED FUEL RECYCLING TECHNOLOGY DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Nuclear Energy, Science, and Technology, shall conduct an advanced fuel recycling technology research and development program to further the availability of electrometallurgical technology as a proliferation-resistant alternative to aqueous reprocessing in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Nuclear Energy Research Advisory Committee.

(b) REPORTS.—The Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate an annual report on the activities of the advanced fuel recycling technology development program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 through 2006.

TITLE V—NATIONAL ACCELERATOR SITE

SEC. 501. FINDINGS.

Congress finds that—

(1)(A) high-current proton accelerators are capable of producing significant quantities of neutrons through the spallation process without using a critical assembly; and

(B) the availability of high-neutron fluences enables a wide range of missions of major national importance to be conducted;

(2)(A) public acceptance of repositories, whether for spent fuel or for final waste products from spent fuel, can be enhanced if the radio-toxicity of the materials in the repository can be reduced;

(B) transmutation of long-lived radioactive species by an intense neutron source provides an approach to such a reduction in toxicity; and

(C) research and development in this area (which, when the source of neutrons is derived from an accelerator, is called ''accelerator transmutation of waste'') should be an important part of a national spent fuel strategy;

(3)(A) nuclear weapons require a reliable source of tritium;

(B) the Department of Energy has identified production of tritium in a commercial light water reactor as the first option to be pursued;

(C) the importance of tritium supply is of sufficient magnitude that a backup technology should be demonstrated and available for rapid scale-up to full requirements;

(D) evaluation of tritium production by a high-current accelerator has been underway; and

(E) accelerator production of tritium should be demonstrated, so that the capability can be scaled up to levels required for the weapons stockpile if difficulties arise with the reactor approach;

(4)(A) radioisotopes are required in many medical procedures;

(B) research on new medical procedures is adversely affected by the limited availability of production facilities for certain radioisotopes; and

(C) high-current accelerators are an important source of radioisotopes, and are best suited for production of proton-rich isotopes; and

(5)(A) a spallation source provides a continuum of neutron energies; and

(B) the energy spectrum of neutrons can be altered and tailored to allow a wide range of experiments in support of nuclear engineering studies of alternative reactor configurations, including studies of materials that may be used in future fission or fusion systems.

SEC. 502. DEFINITIONS.

In this title:

(1) OFFICE.—The term ''Office'' means the Office of Nuclear Energy, Science, and Technology of the Department of Energy.

(2) PROGRAM.—The term ''program'' means the Advanced Accelerator Applications Program established under section 503.

(3) PROPOSAL.—The term ''proposal'' means the proposal for a location supporting the missions identified for the program developed under section 503.

SEC. 503. ADVANCED ACCELERATOR APPLICATIONS PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to be known as the ''Advanced Accelerator Applications Program''.

(b) MISSION.—The mission of the program shall include conducting scientific or engineering research, development, and demonstrations on—

(1) accelerator production of tritium as a backup technology;

(2) transmutation of spent nuclear fuel and waste;

(3) production of radioisotopes;

(4) advanced nuclear engineering concepts, including material science issues; and

(5) other applications that may be identified.

(c) ADMINISTRATION.—The program shall be administered by the Office—

(1) in consultation with the National Nuclear Security Administration, for all activities related to tritium production; and

(2) in consultation with the Office of Civilian Radioactive Waste Management, for all activities relating to the impact of waste transmutation on repository requirements.

(d) PARTICIPATION.—The Office shall encourage participation of international collaborators, industrial partners, national laboratories, and, through support for new graduate engineering and science students and professors, universities.

(e) PROPOSAL OF LOCATION.—

(1) IN GENERAL.—The Office shall develop a detailed proposal for a location supporting the missions identified for the program.

(2) CONTENTS.—The proposal shall—

(A) recommend capabilities for the accelerator and for each major research or production effort;

(B) include development of a comprehensive site plan supporting those capabilities;

(C) specify a detailed time line for construction and operation of all activities;

(D) identify opportunities for involvement of the private sector in production and use of radioisotopes;

(E) contain a recommendation for funding required to accomplish the proposal in future fiscal years; and

(F) identify required site characteristics.

(3) PRELIMINARY ENVIRONMENTAL IMPACT ASSESSMENT.—As part of the process of identification of required site characteristics, the Secretary shall undertake a preliminary environmental impact assessment of a range of sites.

(4) SUBMISSION TO CONGRESS.—Not later than March 31, 2002, the Secretary shall submit to the Committee on Energy and Natural Resources and Committee on Appropriations of the Senate and the Committee on Science and Committee on Appropriations of the House of Representatives a report describing the proposal.

(f) COMPETITION.—

(1) IN GENERAL.—The Secretary shall use the proposal to conduct a nationwide competition among potential sites.

(2) REPORT.—Not later than June 30, 2003, the Secretary shall submit to the Committee on Energy and Natural Resources and Committee on Appropriations of the Senate and the Committee on Science and the Committee on Appropriations of the House of Representatives a report that contains an evaluation of competing proposals and a recommendation of a final site and for funding requirements to proceed with construction in future fiscal years.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROPOSAL.—There is authorized to be appropriated for development of the proposal $20,000,000 for each of fiscal years 2002 and 2003.

(2) RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES.—There are authorized to be appropriated for research, development, and demonstration activities of the program—

(A) $120,000,000 for fiscal year 2002; and

(B) such sums as are necessary for subsequent fiscal years.

TITLE VI—NUCLEAR REGULATORY COMMISSION REFORM

SEC. 601. DEFINITIONS.

Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) is amended—

(1) in subsection f., by striking ''Atomic Energy Commission'' and inserting ''Nuclear Regulatory Commission'';

(2) by redesignating subsection jj. as subsection ll.; and

(3) by adding at the end the following:

''jj. FEDERAL NUCLEAR OBLIGATION.—The term 'Federal nuclear obligation' means—

''(1) a nuclear decommissioning obligation;

''(2) a fee required to be paid to the Federal Government by a licensee for the storage, transportation, or disposal of spent nuclear fuel and high-level radioactive waste, including a fee required under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.); and

''(3) an assessment by the Federal Government to fund the cost of decontamination and decommissioning of uranium enrichment facilities, including an assessment required under chapter 28 of the Energy Policy Act of 1992 (42 U.S.C. 2297g).

''kk. NUCLEAR DECOMMISSIONING OBLIGATION.—The term 'nuclear decommissioning obligation' means an expense incurred to ensure the continued protection of the public from the dangers of any residual radioactivity or other hazards present at a facility at the time the facility is decommissioned, including all costs of actions required under rules, regulations and orders of the Commission for—

''(1) entombing, dismantling and decommissioning a facility; and

''(2) administrative, preparatory, security and radiation monitoring expenses associated with entombing, dismantling, and decommissioning a facility.''.

SEC. 602. OFFICE LOCATION.

Section 23 of the Atomic Energy Act of 1954 (42 U.S.C. 2033) is amended by striking ''; however, the Commission shall maintain an office for the service of process and papers within the District of Columbia''.

SEC. 603. LICENSE PERIOD.

Section 103c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking ''c. Each such'' and inserting the following:

''c. LICENSE PERIOD.—

''(1) IN GENERAL.—Each such''; and

(2) by adding at the end the following:

''(2) COMBINED LICENSES.—In the case of a combined construction and operating license issued under section 185(b), the initial duration of the license may not exceed 40 years from the date on which the Commission finds, before operation of the facility, that the acceptance criteria required by section 185(b) are met.''.

SEC. 604. ELIMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.

(a) COMMERCIAL LICENSES.—Section 103d. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(d)) is amended by striking the second sentence.

(b) MEDICAL THERAPY AND RESEARCH AND DEVELOPMENT.—Section 104d. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(d)) is amended by striking the second sentence.

SEC. 605. ELIMINATION OF DUPLICATIVE ANTITRUST REVIEW.

Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by striking subsection c. and inserting the following:

''c. CONDITIONS.—

''(1) IN GENERAL.—A condition for a grant of a license imposed by the Commission under this section in effect on the date of enactment of the Nuclear Assets Restructuring Reform Act of 2001 shall remain in effect until the condition is modified or removed by the Commission.

''(2) MODIFICATION.—If a person that is licensed to construct or operate a utilization or production facility applies for reconsideration under this section of a condition imposed in the person's license, the Commission shall conduct a proceeding, on an expedited basis, to determine whether the license condition—

''(A) is necessary to ensure compliance with section 105a.; or

''(B) should be modified or removed.''.

SEC. 606. GIFT ACCEPTANCE AUTHORITY.

(a) IN GENERAL.—Section 161g. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(g)) is amended—

(1) by inserting ''(1)'' after ''(g)'';

(2) by striking ''this Act;'' and inserting ''this Act; or''; and

(3) by adding at the end the following:

''(2) accept, hold, utilize, and administer gifts of real and personal property (not including money) for the purpose of aiding or facilitating the work of the Commission.''.

(b) CRITERIA FOR ACCEPTANCE OF GIFTS.—

(1) IN GENERAL.—Chapter 14 of title I of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

''SEC. 170C. CRITERIA FOR ACCEPTANCE OF GIFTS.

''(a) IN GENERAL.—The Commission shall establish written criteria for determining whether to accept gifts under section 161g.(2).

''(b) CONSIDERATIONS.—The criteria under subsection (a) shall take into consideration whether the acceptance of a gift would compromise the integrity of, or the appearance of the integrity of, the Commission or any officer or employee of the Commission.''.

(2) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding at the end of the items relating to chapter 14 the following:

''Sec. 170C. Criteria for acceptance of gifts.''.

SEC. 607. AUTHORITY OVER FORMER LICENSEES FOR DECOMMISSIONING FUNDING.

Section 161i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking ''and (3)'' and inserting ''(3)''; and

(2) by inserting before the semicolon at the end the following: '', and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility''.

SEC. 608. CARRYING OF FIREARMS BY LICENSEE EMPLOYEES.

(a) IN GENERAL.—Chapter 14 of title I of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by section 606(b)) is amended—

(1) in section 161, by striking subsection k. and inserting the following:

''k. authorize to carry a firearm in the performance of official duties such of its members, officers, and employees, such of the employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities, and such of the employees of persons licensed or certified by the Commission (including employees of contractors of licensees or certificate holders) engaged in the protection of facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission or in the protection of property of significance to the common defense and security located at facilities owned or operated by a Commission licensee or certificate holder or being transported to or from such facilities, as the Commission considers necessary in the interest of the common defense and security;'' and

(2) by adding at the end the following:

''SEC. 170D. CARRYING OF FIREARMS.

''(a) AUTHORITY TO MAKE ARREST.—

''(1) IN GENERAL.—A person authorized under section 161k. to carry a firearm may, while in the performance of, and in connection with, official duties, arrest an individual without a warrant for any offense against the United States committed in the presence of the person or for any felony under the laws of the United States if the person has a reasonable ground to believe that the individual has committed or is committing such a felony.

''(2) LIMITATION.—An employee of a contractor or subcontractor or of a Commission licensee or certificate holder (or a contractor of a licensee or certificate holder) authorized to make an arrest under paragraph (1) may make an arrest only—

''(A) when the individual is within, or is in flight directly from, the area in which the offense was committed; and

''(B) in the enforcement of—

''(i) a law regarding the property of the United States in the custody of the Department of Energy, the Commission, or a contractor of the Department of Energy or Commission or a licensee or certificate holder of the Commission;

''(ii) a law applicable to facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission under section 161k.;

''(iii) a law applicable to property of significance to the common defense and security that is in the custody of a licensee or certificate holder or a contractor of a licensee or certificate holder of the Commission; or

''(iv) any provision of this Act that subjects an offender to a fine, imprisonment, or both.

''(3) OTHER AUTHORITY.—The arrest authority conferred by this section is in addition to any arrest authority under other law.

''(4) GUIDELINES.—The Secretary and the Commission, with the approval of the Attorney General, shall issue guidelines to implement section 161k. and this subsection.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended by section 7(b)(2)) is amended by adding at the end of the items relating to chapter 14 the following:

''Sec. 170D. Carrying of firearms.''.

SEC. 609. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking '', or which operates any facility regulated or certified under section 1701 or 1702,'';

(2) by striking ''483a of title 31 of the United States Code'' and inserting ''9701 of title 31, United States Code,''; and

(3) by inserting before the period at the end the following: '', and, commencing October 1, 2002, prescribe and collect from any other Government agency any fee, charge, or price that the Commission may require in accordance with section 9701 of title 31, United States Code, or any other law''.

SEC. 610. HEARING PROCEDURES.

Section 189a.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)) is amended by adding at the end the following:

''(C) HEARINGS.—A hearing under this section shall be conducted using informal adjudicatory procedures established under sections 553 and 555 of title 5, United States Code, unless the Commission determines that formal adjudicatory procedures are necessary—

''(i) to develop a sufficient record; or

''(ii) to achieve fairness.''.

SEC. 611. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended in the first sentence by inserting ''or subject to the licensing authority of the Commission or to certification by the Commission under this Act or any other Act'' before the period at the end.

SEC. 612. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

Section 236a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended—

(1) in paragraph (2), by striking ''storage facility'' and inserting ''storage, treatment, or disposal facility'';

(2) in paragraph (3)—

(A) by striking ''such a utilization facility'' and inserting ''a utilization facility licensed under this Act''; and

(B) by striking ''or'' at the end;

(3) in paragraph (4)—

(A) by striking ''facility licensed'' and inserting ''or nuclear fuel fabrication facility licensed or certified''; and

(B) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fuel fabrication facility subject to licensing or certification under this Act during construction of the facility, if the person knows or reasonably should know that there is a significant possibility that the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;''.

SEC. 613. NUCLEAR DECOMMISSIONING OBLIGATIONS OF NONLICENSEES.

(a) IN GENERAL.—The Atomic Energy Act of 1954 is amended by inserting after section 241 (42 U.S.C. 2015) the following:

''SEC. 242. NUCLEAR DECOMMISSIONING OBLIGATIONS OF NONLICENSEES.

''(a) DEFINITION OF FACILITY.—In this section, the term 'facility' means a commercial nuclear electric generating facility for which a Federal nuclear obligation is incurred.

''(b) DECOMMISSIONING OBLIGATIONS.—After public notice and in accordance with section 181, the Commission shall establish by rule, regulation, or order any requirement that the Commission considers necessary to ensure that a person that is not a licensee (including a former licensee) complies fully with any nuclear decommissioning obligation.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by inserting after the item relating to section 241 the following:

''Sec. 242. Nuclear decommissioning obligations of nonlicensees.''.

SEC. 614. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title take effect on the date of enactment of this Act.

(b) RECOMMISSIONING AND LICENSE REMOVAL.—The amendment made by section 613 takes effect on the date that is 180 days after the date of enactment of this Act.

By Mr. HOLLINGS:

S. 1668. A bill to amend the Communications Act of 1934 to strengthen the limitations on the holding of any license permit, operating authority by a foreign government or any entity controlled by a foreign government; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Madam President, today I reintroduce legislation to clarify rules governing the takeover of U.S. Telecommunications providers by companies owned by foreign governments. The original rules in this area were established by statute in the 1930s, and while the law has not changed, the FCC's interpretations of this statute has.

Today's legislation is almost identical to the legislation that I introduced last year on this topic. I am pleased to announce that this year I am joined in the effort by the Chairman of the House Energy and Commerce Committee, BILLY TAUZIN.

In the intervening year the FCC has approved several transactions involving foreign governments. I am disappointed by these actions and believe that they involve a misreading of the current statute.

The legislation I introduce today will bar outright the transfer or issuance of telecommunications licenses to providers who are more than 25 percent owned by a foreign government. It would also bar the transfer of such licenses to companies controlled by a foreign government.

My reasons for introducing this legislation have not changed from last year. Nevertheless the events of the past year confirm more than ever my conviction that foreign governments should not be permitted to own U.S. telecommunications licenses.

By Mr. HOLLINGS (for himself and Mr. MCCAIN) (by request):

S. 1669. A bill to authorize appropriations for hazardous material transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Madam President, as a courtesy to President Bush and Secretary of Transportation Mineta, I am today introducing their proposed legislation to reauthorize hazardous materials programs.

While I appreciate the Administration's willingness to offer a reauthorization plan, I disagree strongly with several of its provisions. I plan to work with other members of the Commerce Committee to write and introduce legislation to reauthorize the Hazardous Materials Transportation Act later this Congress.

Every year, our Nation transports 4 billion tons of hazardous materials via 800,000 shipments. In 2000, there were 17,347 hazardous materials incidents related to transportation in the United States: 1,419 via air transportation, 14,861 via highway transportation, 1,052 via railway transportation, and 15 via water transportation. These incidents are mostly minor releases of chemicals; 244 incidents caused injuries, and there were 13 deaths, 12 deaths via highway transportation, and 1 death via railway transportation. Of course, one death is too many. That is why we must recommit ourselves to the protection of the brave workers who take on the risks of transporting these dangerous materials and the communities in which these products are produced and through which they are moved.

I am concerned about several provisions of the administration plan, including one that would effectively eliminate the authority of the Occupational Safety and Health Administration, OSHA, to protect workers that handle and transport hazardous materials. It is important that workers are protected and appropriate standards for the handling of hazardous materials are established, including rules for personal protective equipment and the monitoring of exposure levels and medical conditions. Protecting the people that handle and transport these hazardous materials must remain paramount.

The proposed legislation also increases from 2 to 4 years the time between reviews for exemptions from hazardous materials regulations. In our current security environment, creating more exemptions from hazardous materials regulations may not be the most prudent course of action. We also must maintain funding for non-profit organizations to train workers in the handling of hazardous materials.

On another matter, the Administration plan also would repeal some of the requirements Congress has placed on the Department of Transportation in managing these hazardous materials programs. I would caution the Transportation Department not to seek repeal of the requirements and actions that we in Congress have requested of them. We mandated those actions for a reason, and we expect that they will be carried out.

As I work with my colleagues to write a hazardous materials reauthorization bill, we will take into account the recently exposed vulnerabilities of hazardous materials to terrorist attacks. The 1,000 pages of Federal Hazardous Materials Transportation Regulations were designed primarily to promote safety during transportation, not to ensure security and reduce risks from terrorist attacks. Unattended parked vehicles and routing are just two examples of the security concerns associated with the transportation of hazardous materials. We are considering a range of options to address these security threats. We also must increase funding for training local emergency response units to handle hazardous materials accidents.

While we may disagree over how to approach some of these hazardous materials issues, I thank the administration for offering their proposal. I look forward to working with them in the coming months to make the transportation of hazardous materials a safe endeavor for both hazardous materials workers and the public.

I ask unanimous consent that the text of the administration's bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1669

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Hazardous Material Transportation Safety Reauthorization Act of 2001''.

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment

or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. PURPOSE.

Section 5101 is revised to read as follows:

"§ 5101. Purpose

''The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.''.

SEC. 3. DEFINITIONS.

Section 5102 is amended—

(1) by revising paragraph (1) to read as follows:

''(1) 'commerce' means trade or transportation in the jurisdiction of the United States—

''(A) between a place in a State and a place outside of the State;

''(B) that affects trade or transportation between a place in a State and a place outside of the State; or

''(C) on a United States-registered aircraft.'';

(2) by revising paragraphs (3) and (4) to read as follows:

''(3) 'hazmat employee' means an individual who—

''(A)(i) is employed or used by a hazmat employer; or

''(ii) is self-employed, including an owner-operator of a motor vehicle, vessel, or aircraft transporting hazardous material in commerce; and

''(B) performs a function regulated by the Secretary under section 5103(b)(1) of this chapter.

''(4) 'hazmat employer' means a person that—

''(A)(i) has a least one hazmat employee; or

''(ii) is self-employed, including an owner-operator of a motor vehicle, vessel, or aircraft transporting hazardous material in commerce; and

''(B) performs, or employs or uses at least one hazmat employee to perform, a function regulated by the Secretary under section 5103(b)(1) of this chapter.'';

(3) in paragraph (5), by striking ''condition that presents'' and inserting ''condition related to a hazardous material that presents'';

(4) in paragraph (7), by striking ''title'' and inserting ''title, except a freight forwarder is included only if performing a function related to highway transportation'';

(5) in paragraph (8), by striking ''national response team'' each place it appears and inserting ''National Response Team,'' and by striking ''national contingency plan'' and inserting ''National Contingency Plan''; and

(6) in paragraph (9), by revising subparagraph (A) to read as follows:

''(A) includes a government, Indian tribe, or authority of a government or tribe offering hazardous material for transportation in commerce, transporting hazardous material to further a commercial enterprise, or manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing a packaging or packaging component represented as qualified for use in transporting hazardous material in commerce; but''.

SEC. 4. GENERAL REGULATORY AUTHORITY.

Section 5103 is amended—

(1) by revising subsection (a) to read as follows:

''(a) DESIGNIATING MATERIAL AS HAZARDOUS.—The Secretary of Transportation shall designate material (including an explosive; radioactive material; infectious substance; flammable or combustible liquid, solid or gas; toxic, oxidizing or corrosive material; and compressed gas) or a group or class of material as hazardous when the Secretary determines that transporting the material in commerce in a particular amount and form may pose an unreasonable risk to health and safety or property.''; and

(2) in subsection (b)(1), by revising subparagraph (A) to read as follows:

''(A) apply to a person that—

''(i) transports a hazardous material in commerce;

''(ii) causes a hazardous material to be transported in commerce;

''(iii) manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component represented as qualified for use in transporting hazardous material in commerce;

''(iv) prepares, accepts, or rejects hazardous material for transportation in commerce;

''(v) is responsible for the safety of transporting hazardous material in commerce;

''(vi) certifies compliance with any requirement issued under this chapter; or

''(vii) misrepresents whether it is engaged in any of the above activities; and''.

SEC. 5. REPRESENTATION AND TAMPERING.

Section 5104 is amended—

(1) in subsection (a), by striking ''A person'' and inserting ''No person'';

(2) by revising subsection (a)(1) to read as follows:

''(1) a package, component of a package, or packaging for transporting hazardous material is safe, certified, or complies with this chapter if it does not conform to each applicable regulation prescribed under this chapter; or'';

(3) in paragraph (a)(2), by striking ''only if'' and inserting ''unless''; and

(4) by revising subsection (b) to read as follows:

''(b) TAMPERING.—No person may, without authorization from the owner or custodian, alter, remove, destroy, or tamper with—

''(1) a marking, label, placard, or description on a document required under this chapter or a regulation prescribed under this chapter; or

''(2) a package, container, motor vehicle, rail freight car, aircraft, or vessel used to transport hazardous material.''.

SEC. 6. HIGHLY RADIOACTIVE MATERIAL.

Section 5105 is amended by striking subsections (d) and (e).

SEC. 7. HANDLING CRITERIA.

Chapter 51 is amended by striking section 5106 and striking the corresponding item in the analysis of chapter 51.

SEC. 8. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.

(a) Section 5107 is amended by—

(1) striking ''or duplicate'' in subsection (d);

(2) striking ''section 5127(c)(3)'' in subsection (e) and inserting ''section 5128''; and

(3) striking ''and sections 5106, 5108(a)-(g)(1) and (h), and 5109 of this title'' in subsection (f)(2).

(b) Notwithstanding section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1), an action of the Secretary of Transportation under chapter 51 of title 49, United States Code, does not preclude the Secretary of Labor from prescribing or enforcing standards, regulations or requirements regarding —

(1) hazardous materials employee training, or

(2) the occupational safety or health protection of employees responding to a release of hazardous materials.

SEC. 9. REGISTRATION.

Section 5108 is amended—

(1) by striking ''class A or B explosive'' in subsection (a)(1)(B) and inserting ''Division 1.1, 1.2, or 1.3 explosive material'';

(2) by revising subsection (a)(2)(B) to read as follows:

''(B) a person manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing a packaging or packaging component represented as qualified for use in transporting a hazardous material in commerce.'';

(3) by revising subsection (b)(1)(C) to read as follows:

''(C) each State in which the person carries out any of the activities.'';

(4) by revising subsection (c) to read as follows:

''(c) FILING SCHEDULE.—Each person required to file a registration statement under subsection (a) of this section shall file that statement in accordance with regulations issued by the Secretary.'';

(5) in subsection (g)(1), by striking ''may'' and inserting ''shall''; and

(6) in subsection (i)(2)(B), by striking ''State,'' and inserting ''State, Indian tribe,''.

SEC. 10. MOTOR CARRIER SAFETY.

Chapter 51 is amended by striking section 5109 and striking the corresponding item in the analysis of chapter 51.

SEC. 11. SHIPPING PAPER RETENTION.

Section 5110 is amended —

(1) in subsection (a), by striking ''under subsection (b) of this section'' and inserting ''by regulation'';

(2) by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d); and

(3) by revising the first sentence in subsection (d), as redesignated, to read as follows: ''The person that provided the shipping paper and the carrier required to keep it under this section shall retain the paper, or an electronic image of it, for a period of 3 years after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.''.

SEC. 12. RAIL TANK CARS.

Chapter 51 is amended by striking section 5111 and by striking the corresponding item in the analysis of chapter 51.

SEC. 13. UNSATISFACTORY SAFETY RATING.

(a) Section 5113 is amended by adding at the end the following:

''(e) PENALTY FOR VIOLATION.—A violation of section 31144(c)(3) of this title shall be considered a violation of this chapter and shall be subject to the penalties in sections 5123 and 5124 of this chapter.''.

(b) Section 31144(c) is amended—

(1) in paragraph (1), by striking ''sections 521(b)(5)(A) and 5113'' and inserting ''section 521(b)(5)(A)''; and

(2) in paragraph (3), by striking ''interstate commerce'' and inserting ''commerce''; and

(3) by adding at the end of paragraph (3) the following: ''A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51 of this title, and shall be subject to the penalties in sections 5123 and 5124 of this chapter.''.

(c) Section 31144 is amended by striking the subsection designation ''(c)'' at the beginning of the last subsection and inserting ''(f)''.

SEC. 14. PUBLIC SECTOR TRAINING CURRICULUM.

Section 5115 is amended—

(1) in subsection (a), by—

(A) striking ''DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in'' and inserting ''GENERAL.—In'';

(B) striking ''national response team'' and inserting ''National Response Team'' in the first sentence;

(C) striking ''develop and update periodically a'' in the first sentence and inserting ''maintain a current''; and

(D) striking the second sentence;

(2) in subsection (b), by—

(A) striking ''developed'' and inserting ''maintained'' in the first sentence; and

(B) in paragraph (1)(C), by striking ''under other United States Government grant programs, including those developed with grants made under section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9660a)'' and inserting ''with Federal financial assistance'';

(3) in subsection (c)(3), by striking ''the National Fire Protection Association'' and inserting ''the National Fire Protection Association and such other voluntary consensus standard-setting organizations as the Secretary deems appropriate''; and

(4) by revising subsection (d) to read as follows:

''(d) DISTRIBUTION AND PUBLICATION.—With the National Response Team, the Secretary of Transportation may publish and distribute a list of courses developed under this section and of programs using any of those courses.''.

SEC. 15. PLANNING AND TRAINING GRANTS.

(a) Section 5116 is amended—

(1) in the second sentence of subsection (e), by striking ''of the State or tribe under subsections (a)(2)(A) and (b)(2)(A)'' and inserting ''received by the State or tribe under subsections (a)(1) and (b)(1)'';

(2) revising subsection (f) to read as follows:

''(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public-sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.'';

(3) in subsection (g), by striking ''Government grant'' and inserting ''Federal financial assistance'';

(4) by revising subsection (i) to read as follows:

''(i) EMERGENCY PREPAREDNESS FUND.—The Secretary of the Treasury shall establish an Emergency Preparedness Fund account in the Treasury into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title. Without further appropriation, amounts in the account are available—

''(1) to make grants under this section;

''(2) to monitor and provide technical assistance under subsection (f) of this section;

''(3) to publish and distribute the Emergency Response Guidebook; and

''(4) to pay administrative costs of carrying out this section and sections 5108(g)(2) and 5115 of this title, except that not more than 10 percent of the amounts made available from the account in a fiscal year to carry out these sections may be used to pay those costs.''; and

(5) by striking subsection (k).

(b) Chapter 51 is amended by—

(1) revising the section heading for section 5116 to read ''Planning and training grants; emergency preparedness fund''; and

(2) striking the item for section 5116 in the analysis of the chapter and inserting ''5116. Planning and training grants; emergency preparedness fund.''.

SEC. 16. SPECIAL PERMITS AND EXCLUSIONS.

(a) Section 5117 is amended—

(1) by revising the section heading to read as follows:

''§ 5117. Special permits and exclusions'' ;

(2) by striking ''exemption'' and ''an exemption'' each place they appear and inserting, respectively, ''special permit'' and ''a special permit'';

(3) in subsection (a)(1), as revised by Section 16(a)(2) of this Act, by striking ''issue a special permit'' and inserting ''issue, modify, or terminate a special permit authorizing variances'', and by striking ''transporting, or causing to be transported, hazardous material'' and inserting ''performing a function regulated by the Secretary under section 5103(b)(1) of this title''; and

(4) in subsection (a)(2), by striking ''2'' and inserting ''4''.

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5117 and inserting the following:

''5117. Special permits and exclusions.''.

SEC. 17. INSPECTORS.

Chapter 51 is amended by striking section 5118 and striking the corresponding item in the analysis of chapter 51.

SEC. 18. UNIFORM FORMS AND PROCEDURES.

Section 5119 is revised to read as follows:

''§ 5119. Uniform forms and procedures

''(a) REGULATIONS.—(1) The Secretary of Transportation may prescribe regulations to establish uniform forms and procedures for a State—

''(A) to register and issue permits to persons that transport or cause to be transported hazardous material by motor vehicle in the State; and

''(B) to allow the transportation of hazardous material in the State.

''(2) A regulation prescribed under this section may not define or limit the amount of a fee a State may impose or collect.

''(b) EFFECTIVE DATE.—A regulation prescribed under this section takes effect one year after it is prescribed. The Secretary may extend the one-year period for an additional year for good cause. After a regulation is effective, a State may establish, maintain, or enforce a requirement related to the same subject matter only if the requirement is the same as the regulation.

''(c) UNIFORMITY.—The Secretary shall develop a procedure to eliminate differences in how States carry out a regulation prescribed under this section.

''(d) INTERIM STATE PROGRAMS.—Pending promulgation of regulations under this section, States may participate in a program of uniform forms and procedures recommended by the Alliance for Uniform Hazmat Transportation Procedures.''.

SEC. 19. ADMINISTRATIVE.

Section 5121 is revised to read as follows:

''§ Sec. 5121. Administrative

''(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may investigate, conduct tests, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. Except as provided in subsections (c) and (d) of this section, the Secretary shall provide notice and an opportunity for a hearing prior to issuing an order directing compliance with this chapter or a regulation, order, special permit, or approval issued under this chapter.

''(b) RECORDS, REPORTS, PROPERTY, AND INFORMATION.—A person subject to this chapter shall—

''(1) maintain records, make reports, and provide property and information that the Secretary by regulation or order requires; and

''(2) make the records, reports, property, and information available for inspection when the Secretary undertakes an investigation.

''(c) INSPECTIONS AND INVESTIGATIONS.—(1) A designated officer or employee of the Secretary may—

''(A) inspect and investigate, at a reasonable time and in a reasonable way, records and property related to a function described in section 5103(b)(1) of this chapter;

''(B) except for the packaging immediately adjacent to its hazardous material contents, gain access to, open, and examine a package offered for, or in, transportation when the officer or employee has an objectively reasonable and articulable belief that the package may contain a hazardous material;

''(C) remove from transportation a package or related packages in a shipment offered for or in transportation, and for which such officer or employee has an objectively reasonable and articulable belief that the package or packages may pose an imminent hazard, and for which the officer or employee contemporaneously documents that belief in accordance with procedures adopted under subsection (e) of this section;

''(D) gather information from the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package or packages, to ascertain the nature and hazards of the contents of the package or packages;

''(E) as necessary, under terms and conditions specified by the Secretary, order the

offeror, carrier, packaging manufacturer or retester, or other person responsible for the package or packages to have the package or packages transported to, opened and the contents examined and analyzed at a facility appropriate for the conduct of this activity; and

''(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in the activities conducted under this subsection.

''(2) An officer or employee acting under this subsection shall display proper credentials when requested.

''(3) For instances when, as a result of the inspection or investigation, an imminent hazard is not found to exist, the Secretary shall develop procedures to assist in the safe resumption of transportation of the package or transport unit.

''(d) EMERGENCY ORDERS.—(1) If, upon inspection, investigation, testing, or research, the Secretary determines that either a violation of a provision of this chapter or a regulation issued under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

''(2) The Secretary's action under paragraph (1) of this subsection shall be in a written order describing the violation, condition or practice that is causing the imminent hazard, and stating the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed. The order also shall describe the standards and procedures for obtaining relief from the emergency order.

''(3) After taking action under paragraph (1) of this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5, if a petition for review is filed within 20 calendar days after issuance of the order.

''(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.

''(5) For purposes of this subsection, 'out-of-service order' means a mandate that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, portable tank, or other package not be moved until specified conditions have been met.

''(e) REGULATIONS.—The Secretary shall issue regulations in accordance with section 553 of title 5, including an opportunity for informal oral presentation, to implement the authority in subsections (c) and (d) of this section.

''(f) FACILITY, STAFF, AND REPORTING SYSTEM ON RISKS, EMERGENCIES, AND ACTIONS.—(1) The Secretary shall—

''(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk related to the transportation of hazardous material and material alleged to be hazardous;

''(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, other interested individuals, and officers and employees of the United States Government and State, local and tribal governments on meeting an emergency related to the transportation of hazardous material; and

''(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

''(2) Paragraph (1) of this subsection does not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

''(g) AUTHORITY FOR GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other entity to further the objectives of this chapter. The objectives of this chapter include the conduct of research, development, demonstration, risk assessment, and emergency response planning and training activities.''.

SEC. 20. ENFORCEMENT.

Section 5122 is amended—

(1) in subsection (a), by revising the last sentence to read as follows:

''The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123 of this chapter.''; and

(2) in subparagraph (b)(1)(B), by striking ''or ameliorate the'' and inserting ''or mitigate the''.

SEC. 21. PENALTIES.

(a) Section 5123 is amended—

(1) by revising subsection (a) to read as follows:

''(a) PENALTY.—(1) A person that knowingly violates this chapter, or a regulation, order, special permit, or approval issued under this chapter, is liable to the United States Government for a civil penalty of at least $250 but not more than $100,000 for each violation.

''(2) Knowledge by the person of the existence of a statutory provision, or a regulation or requirement prescribed by the Secretary is not an element of an offense under this section.

''(3) A separate violation occurs for each day the violation, committed by a person that transports or causes to be transported hazardous material, continues''; and

(2) by redesignating subsections (b) through (g) as subsections (c) through (h) and inserting a new subsection (b) to read as follows:

''(b) KNOWING VIOLATIONS.—In this section, a person acts knowingly when—

''(1) the person has actual knowledge of the facts giving rise to the violation; or

''(2) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.'';

(3) in subsection (c), as redesignated, by striking the first sentence and inserting the following:

''The Secretary of Transportation may find that a person has violated this chapter, or a regulation, order, special permit or approval issued under this chapter, only after notice and an opportunity for a hearing.'' ; and

(4) by revising subsection (e), as redesignated, to read as follows:

''(e) CIVIL ACTIONS TO COLLECT.—The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty under this section and any accrued interest on that penalty calculated in the manner described under section 2705 of title 33. In such action, the validity, amount, and appropriateness of the civil penalty shall not be subject to review.''.

(b) Section 5124 is revised to read as follows:

''§ 5124. Criminal penalty

''(a) GENERAL.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

''(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this chapter or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.

''(c) KNOWING VIOLATIONS.—In this section, a person acts knowingly when—

''(1) the person has actual knowledge of the facts giving rise to the violation; or

''(2) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

''(d) WILLFUL VIOLATIONS.—In this section, a person acts willfully when the person acts with intent.

''(e) KNOWLEDGE OF REQUIREMENTS.—Knowledge by a person of the existence of a statutory provision, or a regulation or requirement prescribed by the Secretary, is not an element of an offense under this section.''.

(c) Section 46312 is amended—

(1) in subsection (a), by striking ''under this part'' and inserting ''under this part or under chapter 51 of this title''; and

(2) in subsection (b), by striking ''by the Secretary'' and inserting ''by the Secretary under this part or under chapter 51 of this title''.

SEC. 22. PREEMPTION.

Section 5125 is amended—

(1) by redesignating subsections (a), (b), and (c), as subsections (b), (c), and (d), and adding a new subsection (a) to read as follows:

''(a) PURPOSES.—The Secretary shall exercise the authority in this section to achieve uniform regulation of hazardous material transportation, eliminate inconsistent rules that apply differently than rules issued under this chapter, and promote the safe and efficient movement of hazardous material in commerce.'';

(2) in subsection (b), as redesignated, by—

(A) striking ''GENERAL.—Except as provided in subsections (b), (c), and (e)'' and inserting ''DUAL COMPLIANCE AND OBSTACLE TESTS.—Except as provided in subsections (c), (d), and (g)''; and

(B) in subparagraph (2), striking ''carrying out this chapter or a regulation'' and inserting ''carrying out this chapter, the purposes of this chapter, or a regulation'';

(3) in subsection (c), by—

(A) in subparagraph (1), striking ''(c)'' and inserting ''(d)'';

(B) revising subparagraph (1)(E) to read as follows:

''(E) the manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing of a packaging or packaging component represented as qualified for use in transporting hazardous material in commerce.''; and

(C) in subparagraph (2), striking ''after November 16, 1990'';

(4) by striking subsection (f) and redesignating subsections (g), (d), and (e) as subsections (e), (f), and (g);

(5) in subsection (f), as redesignated, by striking ''subsection (a), (b)(1), or (c) of this section'' and inserting ''subsection (b), (c)(1), (d), or (e) of this section or subsection 5119(b) of this chapter.'', and by striking ''in the Federal Register'';

(6) in subsection (g), as redesignated, by striking ''subsection (a), (b)(1), or (c) of this section'' and inserting ''subsection (b), (c)(1), (d), or (e) of this section or subsection 5119(b) of this chapter.''; and

(7) by adding new subsections (h) and (i) to read as follows:

''(h) INDEPENDENT APPLICATION OF EACH STANDARD.—Each preemption standard in subsections (b), (c)(1), (d), and (e) of this section and in section 5119(b) of this chapter is independent in its application to a requirement of any State, political subdivision of a State, or Indian tribe.

''(i) NONFEDERAL ENFORCEMENT STANDARDS.—This section does not apply to procedure, penalty, or required mental state or other standard used by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to transportation of a hazardous material.''.

SEC. 23. RELATIONSHIP TO OTHER LAWS.

Section 5126 is amended—

(1) by revising subsection (a) to read as follows:

''(a) CONTRACTS.—A person under contract with a department, agency, or instrumentality of the United States Government that transports hazardous material or causes hazardous material to be transported, or manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component represented as qualified for use in transporting hazardous material in commerce shall comply with this chapter, regulations prescribed and orders issued under this chapter, and all other requirements of the United States Government, State and local governments, and Indian tribes (except a requirement preempted by a law of the United States) in the same way and to the same extent that any person engaging in that transportation, manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing that is in or affects commerce must comply with the provision, regulation, order, or requirement.''; and

(2) in subsection (b), by—

(A) striking ''title 18 or 39;'' and inserting ''title 18 or 39; or'' in paragraph (2); and

(B) adding a new paragraph (3) to read as follows:

''(3) marine transportation of hazardous material subject to regulation under title 33 or 46.''.

SEC. 24. JUDICIAL REVIEW.

(a) Chapter 51 is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

''§ 5127. Judicial review

''(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person suffering legal wrong or adversely affected or aggrieved by a final action of the Secretary of Transportation under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

''(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

''(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in the Administrative Procedure Act, 5 U.S.C. 551 et seq., to affirm, amend, modify, or set aside any part of the Secretary's final action and may order the Secretary to conduct further proceedings. Findings of fact by the Secretary, if supported by substantial evidence, are conclusive.

''(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

''5127. Judicial review.
''5128. Authorization of appropriations.''.

SEC. 25. AUTHORIZATION OF APPROPRIATIONS.

Section 5128, as redesignated by section 24 of this Act, is amended to read as follows:

''§ 5128. Authorization of appropriations

''(a) GENERAL.—To carry out this chapter (except sections 5107(e), 5108(g), 5112, 5113, 5115, 5116, and 5119), not more than $21,217,000 is authorized to be appropriated to the Secretary of Transportation for fiscal year 2002; and such sums as may be necessary are authorized to be appropriated to the Secretary for fiscal years 2003 through 2007.

''(b) EMERGENCY PREPAREDNESS FUND.—There shall be available from the Emergency Preparedness Fund account the following:

''(1) To carry out section 5116(j) of this title, $250,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

''(2) To carry out section 5115 of this title, $200,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

''(3) To carry out section 5116(a) of this title, $5,000,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

''(4) To carry out section 5116(b) of this title, $7,800,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

''(5) To carry out section 5116(f) of this title, $150,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

''(6) To publish and distribute the Emergency Response Guidebook, $500,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

''(7) To carry out section 5107(e) of this title, such amounts as may be necessary are authorized to be appropriated to the Secretary for each of fiscal years 2002 through 2007.

''(8) To carry out section 5116(i)(4) of this title, $400,000 shall be available to the Secretary for fiscal year 2002, and such amounts as may be necessary for fiscal years 2003 through 2007.

''(c) CREDITS TO APPROPRIATIONS.—The Secretary of Transportation may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

''(d) AVAILABILITY OF AMOUNTS.—Amounts available under this section remain available until expended.''.

SEC. 26. POSTAL SERVICE CIVIL PENALTY AUTHORITY.

(a) Section 3001 of title 39, United States Code, is amended by adding a new subsection (o) as follows:

''(o)(1) Except as permitted by law and Postal Service regulation, hazardous material is nonmailable.

''(2) For purposes of this section, the term 'hazardous material' means a substance or material the Secretary of Transportation designates under section 5103(a) of title 49.''.

(b) Chapter 30 of title 39, United States Code, is amended by adding a new section 3018 at the end as follows:

''§ 3018. Hazardous material; civil penalty

''(a) REGULATIONS.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

''(b) HAZARDOUS MATERIAL IN THE MAIL.—No person may—

''(1) mail or cause to be mailed a hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

''(2) mail or cause to be mailed a hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which a hazardous material may be mailed; or

''(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

''(A) is represented, marked, certified, or sold by such person for use in the mailing of a hazardous material; and

''(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of a hazardous material.

''(c) CIVIL PENALTY.—

''(1) A person that knowingly violates this section or a regulation issued under this section is liable to the Postal Service for a civil penalty of at least $250 but not more than $100,000 for each violation, and for any cleanup costs and damages. A person acts knowingly when—

''(A) the person has actual knowledge of the facts giving rise to the violation; or

''(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

''(2) Knowledge by the person of the existence of a statutory provision, or a regulation or requirement prescribed by the Postal Service is not an element of an offense under this section.

''(3) A separate violation occurs for each day a hazardous material, mailed or caused to be mailed in noncompliance with this section or a regulation issued under this section, is in the mail.

''(4) A separate violation occurs for each item containing a hazardous material that is mailed or caused to be mailed in noncompliance with this section or a regulation issued under this section.

''(d) HEARING REQUIREMENT.—The Postal Service may find that a person has violated

this section or a regulation issued under this section only after notice and an opportunity for a hearing. Under this section, the Postal Service shall impose a penalty and recover clean-up costs and damages by giving the person written notice of the amount of the penalty, clean-up costs, and damages.

''(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Postal Service shall consider—

''(1) the nature, circumstances, extent, and gravity of the violation;

''(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

''(3) the impact on postal operations; and

''(4) other matters that justice requires.

''(f) CIVIL ACTIONS TO COLLECT.—(1) In accordance with section 409(d) of this title, the Department of Justice or the Postal Service may commence a civil action in an appropriate district court of the United States to collect a civil penalty, clean-up costs, or damages assessed under this section. In such action, the validity, amount, and appropriateness of the civil penalty, clean-up costs, or damages shall not be subject to review.

''(2) The Postal Service may compromise the amount of a civil penalty, clean-up costs, or damages assessed under this section before civil action is taken to collect the penalty, costs, or damages.

''(g) CIVIL JUDICIAL PENALTIES.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Postal Service in an administrative case under this section.

''(h) DEPOSITING AMOUNTS COLLECTED.—Amounts collected under this section shall be paid into the Postal Service Fund established by section 2003 of this title.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 30 of title 39, United States Code, is amended by adding the following:

''3018. Hazardous material; civil penalty.''.

Mr. MCCAIN. Madam President, I am pleased to join Chairman HOLLINGS in introducing the Hazardous Materials Transportation Safety reauthorization Act of 2001 at the request of the Administration. This measure is a good start toward improving and strengthening the safe and secure transport of our nation's hazardous materials. In addition to authorizing funding for hazardous materials transportation safety programs, this legislation addresses concerns arising since the attacks of September 11. Among other things, this bill would strengthen the authority of Department of Transportation (DOT) inspectors to inspect packages being transported, and provide those inspectors with the authority to stop unsafe transportation. This measure would also increase the maximum civil penalty for violations of hazardous materials regulations from $27,500 to $100,000. It would expand the requirements for training persons involved in the transportation of hazardous materials and strengthen the enforcement authority of State enforcement officials.

The hazardous materials transportation safety program reauthorization is long overdue. The most recent authorization expired September 30, 1998. Since then, attempts at reauthorization have failed due to objections within Congress and an inability to reach an agreement on certain proposals with the former administration. Now, however, it is appropriate to attempt to move forward and address identified safety problems and improve safety for all Americans. I am hopeful that the Senate will act quickly to take the necessary action to improve hazardous materials transportation safety before we are forced to respond to another attack making use of our nation's transportation system.

Annually, more than four billion tons of hazardous materials—about 800,000 shipments daily—are transported by land, sea, and air in the United States. Among these materials are flammable liquids, combustible solids, gases, and corrosive materials. Despite the wide variety and amount of shipments, the hazardous materials transportation industry has a notable safety record, due in large part to the safety efforts of the individuals and companies involved in transporting these materials. In 1999, for instance, there were five hazardous materials related fatalities, down from thirteen in 1998 and twelve in 1997. However, in light of the attacks of September 11, it is more important than ever to reauthorize this important program. Reauthorization should include new authority for enforcement officials and clarify existing authority for the federal agencies that administer the programs responsible for hazardous materials transportation safety.

The Federal Government has four roles related to hazardous materials transportation: regulation, enforcement, emergency response, and data collection and analysis. The DOT performs the largest role of establishing and enforcing Hazmat regulations, while the Research and Special Program Administration (RSPA), and to a lesser extent other agencies within the Department, are charged with more specific roles.

RSPA is responsible for the regulation and identification of hazardous materials including hazardous materials handling and shipments, the development of container standards and testing procedures, the inspection and enforcement of multimodal shippers and container manufacturers, and for data collection. This legislation would provide authority to RSPA to continue its hazardous materials safety activities. In addition, the measure would grant the United States Postal Service (USPS) similar authority to DOT and its agencies to collect civil penalties and recover costs and damages for violations of its hazardous materials regulations.

With this bill, jurisdiction between the DOT and the Occupational Safety and Health Administration (OSHA) would be clarified as it pertains to hazardous materials transportation. Dual jurisdiction over handling criteria registration, and motor carrier safety would be eliminated, leaving DOT with sole jurisdiction over these programs. Hazardous materials transportation employee training and occupational safety and health protection of employees responding to a release of hazardous materials would remain under the jurisdiction of both DOT and OSHA.

I hope this Congress will act expeditiously to approve comprehensive hazardous materials transportation safety legislation. We simply cannot afford another missed opportunity to address transportation safety shortcomings. We must do all we can to ensure the safe transport of these materials, including providing the needed resources to the agencies charged with oversight of this industry. The Administration is correct in asking Congress to address hazardous materials transportation reauthorization. I will be working with Chairman HOLLINGS and look forward to hearings in the near future to address this important reauthorization proposal.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 81—EXPRESSING THE SENSE OF CONGRESS TO WELCOME THE PRIME MINISTER OF INDIA, ATAL BIHARI VAJPAYEE, ON THE OCCASION OF HIS VISIT TO THE UNITED STATES, AND TO AFFIRM THAT INDIA IS A VALUED FRIEND AND PARTNER AND AN IMPORTANT ALLY IN THE CAMPAIGN AGAINST INTERNATIONAL TERRORISM

Mr. BIDEN (for himself, Mr. HELMS, Mr. WELLSTONE, Mr. BROWNBACK, Mr. SARBANES, Mr. TORRICELLI, Mr. DASCHLE, Mr. ALLEN, Mr. DODD, and Mr. KERRY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 81

Whereas Congress is pleased to welcome the Prime Minister of India, Atal Bihari Vajpayee, on his visit to the United States;

Whereas the United States and India, the world's two largest democracies, are natural allies, based on their shared values and common interests in building a stable, peaceful, and prosperous world in the 21st century;

Whereas from the very day that the terrorist attacks in New York and Washington occurred, India has expressed its condolences for the terrible losses, its solidarity with the